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ANNOTATED SUPPLEMENT
TO THE
KENTUCKY STATUTES c. #
EDITION 1894.

BEING

A COMPILATION OF ALL ACTS OF A GENERAL AND
PERMANENT NATURE PASSED BY THE GENERAL ASSEMBLY
AT THE SESSIONS OF 1896, 1897, AND 1898,

INCLUDING

REFERENCES TO ALL SECTIONS OF THE KENTUCKY STATUTES AFFECTED BY
THESE ACTS, AND REFERENCES TO DECISIONS OF THE COURT
OF APPEALS SINCE AUGUST, 1894, INVOLVING THE
CONSTRUCTION OR VALIDITY OF ANY
STATUTE OF THE STATE,

WITH

MARGINAL REFERENCE LABELS.

PREPARED BY
W. H. Caldwell
F. P. CALDWELL, Esq.
Of the Springfield Bar.

99-628 n.c.

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A CONSECUTIVE LIST OF CHAPTERS OF THE KEN-
TUCKY STATUTES UNDER WHICH NEW
LAWS HAVE BEEN PASSED.

Chap. 8.....p. 1.	Chap. 69.....p. 55.
Chap. 5.....p. 2.	Chap. 71.....p. 56.
Chap. 7.p. 2.	Chap. 74.....p. 58.
Chap. 16.....p. 3.	Chap. 76.....p. 58.
Chap. 20.....p. 14.	Chap. 79.....p. 60.
Chap. 30.....p. 16.	Chap. 81.....p. 62.
Chap. 31.....p. 16.	Chap. 85.....p. 63.
Chap. 32.....p. 17.	Chap. 88.....p. 69.
Chap. 34.....p. 27.	Chap. 89.....p. 71.
Chap. 35.....p. 29.	Chap. 93.....p. 85.
Chap. 36.....p. 32.	Chap. 97.....p. 86.
Chap. 39.....p. 42.	Chap. 107.....p. 90.
Chap. 41.....p. 42.	Chap. 108.....p. 91.
Chap. 45.....p. 50.	Chap. 110....p. 96.
Chap. 47.....p. 51.	Chap. 113.....p. 97.
Chap. 50.....p. 52.	Chap. 121.....p. 107.
Chap. 53.....p. 54.	Chap. 129.....p. 108.
Chap. 54.....p. 55.	Chap. 134.....p. 114.

A CONSECUTIVE LIST OF SECTIONS OF THE KENTUCKY STATUTES AMENDED, AFFECTED, REPEALED, OR HELD VOID.

The sections not otherwise indicated are amended. The abbreviations a., r., and v. represent affected, repealed, and void sections. The references are to the pages of this Supplement.

Sec. 87.....p. 2.	Sec. 1632 ap. 60.	Sec. 2982.....p. 75.
Sec. 96.....p. 3.	Sec. 1660 ap. 60.	Sec. 2998.....p. 75.
Sec. 223.....p. 3.	Sec. 1776 rp. 61.	Sec. 3005.....p. 75.
Sec. 238 ap. 4.	Sec. 1777 v.am....p. 61.	Sec. 3017.....p. 76.
Sec. 537.....p. 16.	Sec. 1899.....p. 64.	Sec. 3117.....p. 77.
Sec. 603.....p. 25.	Sec. 2178 ap. 65.	Sec. 3136.....p. 77.
Sec. 612 ap. 18.	Sec. 2246.....p. 68.	Sec. 3143.....p. 78.
Sec. 730.....p. 26.	Sec. 2463.....p. 60.	Sec. 3210.....p. 78.
Sec. 734.....p. 26.	Sec. 2467 r.re....p. 61.	Sec. 3219.....p. 79.
Sec. 816 vp. 27.	Sec. 2468.....p. 61.	Sec. 3453.....p. 81.
Sec. 817 vp. 27.	Sec. 2488.....p. 61.	Sec. 3483.....p. 80.
Sec. 818 vp. 27.	Sec. 2492.....p. 61.	Sec. 3652.....p. 81.
Sec. 819 vp. 27.	Sec. 2557 ap. 62.	Sec. 3661 v.....p. 81.
Sec. 864 vp. 27.	Sec. 2618.....p. 63.	Sec. 3662 v.....p. 81.
Sec. 908.....p. 28.	Sec. 2619 rp. 63.	Sec. 3763.....p. 85.
Sec. 909.....p. 28.	Sec. 2620 rp. 63.	Sec. 3795.....p. 86.
Sec. 911.....p. 28.	Sec. 2621 rp. 63.	Sec. 3796.....p. 87.
Sec. 950.....p. 30.	Sec. 2622 rp. 63.	Sec. 3799.....p. 87.
Sec. 965.....p. 30.	Sec. 2623 rp. 63.	Sec. 3810.....p. 87.
Sec. 1050.....p. 31.	Sec. 2624 rp. 63.	Sec. 3812.....p. 88.
Sec. 1222 ap. 34.	Sec. 2625 rp. 63.	Sec. 3813.....p. 89.
Sec. 1223 ap. 32.	Sec. 2626 rp. 63.	Sec. 3814.....p. 89.
Sec. 1279.....p. 39.	Sec. 2627 rp. 63.	Sec. 4019.....p. 91.
Sec. 1284.....p. 41.	Sec. 2628 rp. 63.	Sec. 4147.....p. 92.
Sec. 1312 rp. 41.	Sec. 2629 rp. 63.	Sec. 4151p. 92.
Sec. 1340 ap. 33.	Sec. 2630 rp. 63.	Sec. 4215 v.....p. 93.
Sec. 1386 ap. 69.	Sec. 2631 rp. 63.	Sec. 4306.....p. 96.
Sec. 1447 ap. 44.	Sec. 2632 rp. 63.	Sec. 4401.....p. 97.
Sec. 1350 ap. 69.	Sec. 2633 rp. 63.	Sec. 4425.....p. 98.
Sec. 1443 ap. 44.	Sec. 2634 rp. 63.	Sec. 4434.....p. 99.
Sec. 1450 ap. 45.	Sec. 2635 rp. 63.	Sec. 4436.....p. 100.
Sec. 1459.....p. 49.	Sec. 2740.....p. 71.	Sec. 4443.....p. 100.
Sec. 1507.....p. 45.	Sec. 2752.....p. 71.	Sec. 4445.....p. 102.
Sec. 1508.....p. 45.	Sec. 2833.....p. 72.	Sec. 4464.....p. 102.
Sec. 1512.....p. 48.	Sec. 2882 v.....p. 81.	Sec. 4481.....p. 103.
Sec. 1513.....p. 48.	Sec. 2912.....p. 72.	Sec. 4687.....p. 107.
Sec. 1531.....p. 47.	Sec. 2946.....p. 73.	Sec. 4718.....p. 113.
Sec. 1533.....p. 48.	Sec. 2974 v. am ...p. 73.	Sec. 4726.....p. 113.
Sec. 1534.....p. 49.	Sec. 2981.....p. 74.	

CONSECUTIVE LIST OF SECTIONS OF THE KENTUCKY
STATUTES CONSTRUED BY THE COURT OF
APPEALS BETWEEN AUGUST, 1894,
AND JANUARY, 1899.

Sec. 6 { 18 R. 1082. 95 Ky. 286.	Sec. 772 { 97 Ky. 207. 20 R. 125.	Sec. 1164 { 98 Ky. 354. 19 R. 622.
Sec. 10—19 R. 1164.	Sec. 784—19 R. 1462.	Sec. 1166 { 96 Ky. 163. 99 Ky. 183.
Sec. 68 { 96 Ky. 423. 47 S.W. R. 599.	Sec. 786 { 18 R. 610. 20 R. 371.	Sec. 1166—18 R. 129.
Sec. 71—18 R. 546.	Sec. 791—19 R. 329.	Sec. 1174 { 96 Ky. 395. 98 Ky. 628. 47 S.W. R. 436.
Sec. 74—20 R. 179.	Sec. 795 { 99 Ky. 664. 47 S.W. R. 844.	Sec. 1185—18 R. 614.
Sec. 84—19 R. 1621.	Sec. 800—99 Ky. 666.	Sec. 1189—18 R. 484.
Sec. 107 { 20 R. 76. 20 R. 360.	Sec. 801 { 19 R. 1846. 19 R. 1469.	Sec. 1208—96 Ky. 6.
Sec. 114—19 R. 114.	Sec. 807 { 98 Ky. 128. 18 R. 16.	Sec. 1214—98 Ky. 709.
Sec. 117—18 R. 828.	Sec. 820—20 R. —.	Sec. 1239—98 Ky. 638.
Sec. 127—19 R. 1921.	Sec. 908—97 Ky. 722.	Sec. 1242—96 Ky. 423.
Sec. 182—19 R. 442.	Sec. 950—99 Ky. 884.	Sec. 1350—96 Ky. 220.
Sec. 209—98 Ky. 96.	Sec. 951—20 R. 312.	Sec. 1377 { 98 Ky. 20. 19 R. 876.
Sec. 216—98 Ky. 96.	Sec. 965—20 R. 498.	Sec. 1408 { 20 R. 270. 48 S.W. R. 158.
Sec. 257—47 S.W. R. 864.	Sec. 970—97 Ky. 417.	Sec. 1437—97 Ky. 29.
Sec. 353—18 R. 857.	Sec. 976—97 Ky. 328.	Sec. 1443—47 S.W. R. 867.
Sec. 354—19 R. 358.	Sec. 1058 { 99 Ky. 197. 20 R. 20.	Sec. 1458 { 19 R. 1134. 98 Ky. 398.
Sec. 356—99 Ky. 650.	Sec. 1073—18 R. 481.	Sec. 1469—47 S.W. R. 867.
Sec. 453—99 Ky. 885.	Sec. 1098—98 Ky. 66.	Sec. 1471 { 98 Ky. 607. 47 S.W. R. 867.
Sec. 465 { 98 Ky. 469. 47 S.W. R. 328.	Sec. 1112—98 Ky. 4.	Sec. 1475—99 Ky. 808.
Sec. 473—99 Ky. 268.	Sec. 1130—18 R. 630.	Sec. 1482 { 18 Ky. 771. 47 S.W. R. 867.
Sec. 482—98 Ky. 452.	Sec. 1139—18 R. 610.	Sec. 1505—98 Ky. 787.
Sec. 571—97 Ky. 326.	Sec. 1152—48 S.W. R. 161.	Sec. 1508—47 S.W. R. 867.
Sec. 572 { 97 Ky. 238. 97 Ky. 247.	Sec. 1154—20 R. 578.	Sec. 1528—99 Ky. 40.
Sec. 591—98 Ky. 147.	Sec. 1162 { 99 Ky. 36. 19 R. 453.	Sec. 1534—18 R. 860.
Sec. 639—47 S.W. R. 614.	Sec. 1164 { 18 R. 220. 18 R. 782.	Sec. 1535 { 99 Ky. 226. 47 S.W. R. 867.
Sec. 654—98 Ky. 623.		
Sec. 656—18 R. 778.		
Sec. 700—47 S.W. R. 1089.		

Consecutive List of Sections Construed.

Sec. 1587 { 96 Ky. 585. 97 Ky. 29.	Sec. 2127—19 R. 928.	Sec. 2874—20 R. 602.
Sec. 1594—98 Ky. 8.	Sec. 2182 { 20 R. 238. 48 S.W. R. 158.	Sec. 2974—19 R. 1850.
Sec. 1707—19 R. 818.	Sec. 2155—97 Ky. 398.	Sec. 2981—98 Ky. 325.
Sec. 1721—19 R. 1537.	Sec. 2301—19 R. 1481.	Sec. 3010 { 97 Ky. 125. 98 Ky. 819.
Sec. 1729—48 S.W. R. 154.	Sec. 2328—96 Ky. 231.	Sec. 3011 { 19 R. 414. 20 R. 81.
Sec. 1740—19 R. 1601.	Sec. 2348—98 Ky. 246.	Sec. 3064—19 R. 358.
Sec. 1761—19 R. 1483.	Sec. 2353—18 R. 1097.	Sec. 3101—99 Ky. 510.
Sec. 1776—19 R. 126.	Sec. 2356 { 97 Ky. 444. 98 Ky. 428.	Sec. 3172—19 R. 1672.
Sec. 1786—19 R. 1544.	Sec. 2356—95 Ky. 84.	Sec. 3219—20 R. 289.
Sec. 1790—19 R. 1270.	Sec. 2361—97 Ky. 307.	Sec. 3285—19 R. 712.
Sec. 1834—48 S.W. R. 148.	Sec. 2380—19 R. 81.	Sec. 3290—19 R. 1068.
Sec. 1839—47 S.W. R. 876.	Sec. 2467—98 Ky. 28.	Sec. 3304—18 R. 882.
Sec. 1840—48 S.W. R. 148.	Sec. 2500—98 Ky. 3.	Sec. 3426—18 R. 684.
Sec. 1852 { 47 S.W. R. 596. 47 S.W. R. 1079.	Sec. 2505—95 Ky. 457.	Sec. 3449—99 Ky. 424.
Sec. 1853—47 S.W. R. 876.	Sec. 2514—98 Ky. 487.	Sec. 3450—48 S.W. R. 164.
Sec. 1884 { 19 R. 1510. 47 S.W. R. 579.	Sec. 2516—97 Ky. 585.	Sec. 3484—19 R. 962.
Sec. 1886—99 Ky. 17.	Sec. 2519 { 99 Ky. 300. 96 Ky. 449. 47 S.W. R. 624.	Sec. 3485—97 Ky. 384.
Sec. 1899—99 Ky. 163.	Sec. 2522—96 Ky. 316.	Sec. 3506—20 R. 94.
Sec. 1906—47 S.W. R. 623.	Sec. 2542—19 R. 1020.	Sec. 3513—99 Ky. 23.
Sec. 1908—47 S.W. R. 602.	Sec. 2543—20 R. 25.	Sec. 3528—19 R. 876.
Sec. 1910 { 18 R. 468. 95 Ky. 145.	Sec. 2551 { 99 Ky. 300. 19 R. 719.	Sec. 3550—97 Ky. 531.
Sec. 1934—48 S.W. R. 166.	Sec. 2554—19 R. 324.	Sec. 3572—47 S.W. R. 608.
Sec. 1956—98 Ky. 93.	Sec. 2636—19 R. 337.	Sec. 3588—19 R. 993.
Sec. 1960—98 Ky. 664.	Sec. 2732—19 R. 850.	Sec. 3629—99 Ky. 270.
Sec. 1972—97 Ky. 485.	Sec. 2740—99 Ky. 398.	Sec. 3637—20 R. 74.
Sec. 1977—99 Ky. 21.	Sec. 2763 { 98 Ky. 51. 98 Ky. 336.	Sec. 3646—18 R. 209.
Sec. 1987—97 Ky. 606.	Sec. 2781 { 99 Ky. 456. 99 Ky. 493.	Sec. 3658—96 Ky. 567.
Sec. 2017—98 Ky. 581.	Sec. 2788—99 Ky. 551.	Sec. 3665—47 S.W. R. 862.
Sec. 2030—99 Ky. 506.	Sec. 2791—97 Ky. 169.	Sec. 3692—47 S.W. R. 862.
Sec. 2055—19 R. 1707.	Sec. 2794—99 Ky. 449.	Sec. 3715—99 Ky. 369.
Sec. 2060—20 R. 281.	Sec. 2824—99 Ky. 603.	Sec. 3746—18 R. 245.
Sec. 2064—96 Ky. 503.	Sec. 2826—99 Ky. 78.	Sec. 3870—98 Ky. 647.
Sec. 2087 { 97 Ky. 206. 48 S.W. R. 146.	Sec. 2833—99 Ky. 234.	Sec. 3878—96 Ky. 307.
Sec. 2098—99 Ky. 528.	Sec. 2838—99 Ky. 234.	Sec. 3884—47 S.W. R. 620.
Sec. 2122—95 Ky. 385.	Sec. 2847—99 Ky. 493.	Sec. 3892—47 S.W. R. 597.
Sec. 2123—99 Ky. 33.	Sec. 2854—99 Ky. 476.	Sec. 3955—20 R. 615.
Sec. 2127 { 20 R. 417. 98 Ky. 538.	Sec. 2861—99 Ky. 559.	Sec. 3957—47 S.W. R. 241.
		Sec. 4039—98 Ky. 617.
		Sec. 4056—47 S.W. R. 866.
		Sec. 4067—20 R. 529.

Consecutive List of Sections Construed.

Sec. 4077—47 S.W. R. 877.	Sec. 4205 { 98 Ky. 178.	Sec. 4434—19 R. 1623.
Sec. 4078—47 S.W. R. 877.	{ 99 Ky. 166.	Sec. 4436—18 R. 534.
Sec. 4079—99 Ky. 634.	Sec. 4223—19 R. 540.	Sec. 4438—19 R. 1422.
Sec. 4087—47 S.W. R. 877.	Sec. 4224 { 96 Ky. 166.	Sec. 4464 { 99 Ky. 12.
Sec. 4105 { 19 R. 554.	{ 20 R. 574.	{ 99 Ky. 229.
{ 19 R. 1678.	Sec. 4228—98 Ky. 297.	Sec. 4464—20 R. 21.
Sec. 4129—20 R. 529.	Sec. 4306—47 S.W. R. 258.	Sec. 4557—99 Ky. 106.
Sec. 4131—99 Ky. 101.	Sec. 4325—47 S.W. R. 258.	Sec. 4805—98 Ky. 457.
Sec. 4134—47 S.W. R. 579.	Sec. 4385—20 R. 606.	Sec. 4841—96 Ky. 503.
Sec. 4141—19 R. 648.	Sec. 4362—98 Ky. 359.	Sec. 4849—47 S.W. R. 858.
Sec. 4143—19 R. 1511.	Sec. 4371—97 Ky. 181.	Sec. 4850 { 47 S.W. R. 611.
Sec. 4203 { 98 Ky. 138.	Sec. 4428—19 R. 466.	{ 47 S.W. R. 858.
{ 99 Ky. 296.	Sec. 4433—19 R. 1046.	Sec. 4859—47 S.W. R. 611.
Sec. 4205—97 Ky. 737.		

ANNOTATED SUPPLEMENT
TO THE
KENTUCKY STATUTES

CHAPTER 3. AGRICULTURAL AND MECHANICAL
COLLEGE.

APPROPRIATION FOR AGRICULTURAL AND MECHANICAL COLLEGE AND
STATE NORMAL SCHOOL FOR COLORED PERSONS.

(*Acts 1897, Chap. 21. Approved May 21, 1897.*)

Sec. 1. **Appropriation.** That there is hereby appropriated out of any money in the treasury, not otherwise appropriated, the sum of twenty-nine thousand five hundred and eighty-four and twenty-one hundredths (\$29,584.21) dollars to pay the interest due the Agricultural and Mechanical College to July first, eighteen hundred and ninety-seven, out of the funds held by the State for the benefit of said college, and the auditor of public accounts be, and he is hereby, authorized and directed to draw his warrant upon the treasury in favor of the treasurer of the Agricultural and Mechanical College of Kentucky for the sum of twenty-five thousand two hundred and ninety-four dollars and fifty cents (\$25,294.50) and in favor of the treasurer of the State Normal School for colored persons for the sum of four thousand two hundred and eighty-nine dollars and seventy cents (\$4,289.70).

Sec. 2. **Bonds issued to commissioners of sinking fund as trustees—how interest paid.** That the commissioners of the sinking fund be, and they are hereby, authorized and directed to issue to themselves as trustees for the Agricultural and Mechanical College of Kentucky, and the State Normal School for colored persons of Kentucky, in the proportion hereafter mentioned, the bond of the Commonwealth, bearing date of July first, eighteen hundred and ninety-seven, for one hundred and sixty-five thousand dollars (\$165,000.00), bearing interest at the rate of six per cent, payable semi-annually, and said bond shall be a perpetual obligation of the Commonwealth, and the interest thereon shall be a perpetual charge upon the treasury; and it shall be the duty of the auditor to regularly draw his warrant upon the treasurer in favor of the treasurer of each of said colleges on the first day of January and on the first day of July, of each and every year, for the sum of four thousand nine hundred and fifty dollars (\$4,950.00) to pay said interest, in the following proportions, to-wit: Six hundred and twenty-seven and seventy-five one-hundredths dollars (\$627.75) to the treasurer of the State Normal School for colored persons, and four thousand three hundred and twenty-two and twenty-five one-hundredths dollars (\$4,322.25) to the treasurer of the Agricultural and Mechanical College of Kentucky.

CHAPTER 5. ANIMALS.

GLANDERS.

(Acts 1897, Chap. 3. Approved April 29, 1897.)

Sec. 1. Glanders—duty of county judge and justice of peace when satisfied animal is so diseased—valuation—compensation for—penalty. When it is made to appear to the satisfaction of the county judge, or any justice of the peace of any county in this Commonwealth, that any animal within his county is diseased with glanders, it shall be the duty of the county judge or justice of the peace to notify the owner and require him to kill and bury it; and before the animal or animals are killed, the county judge, with a justice of the peace, or two justices of the peace, shall cause the animal to be valued, the valuation not to exceed fifty dollars for any one animal, and the valuation of said animal or animals, together with the fact of its destruction, shall be certified by the two justices or the county judge to the county court, together with the name of the owner, and spread upon the records of the court. A certified copy of said order, under the seal of the county, shall be delivered to the owner, and upon its presentation to the county court, the county judge may order the amount certified to be paid out of the county funds in which county said disease appears. Provided, further, that if the animal is diseased with glanders, and the owner should refuse to destroy the animal on the demand of the county judge or any justice, he shall be subject to a fine of not less than one hundred dollars nor more than five hundred dollars, to be enforced by indictment, etc.

NOTE.—See further as to Glanders, Sections 47, 1832, and 1833, Kentucky Statutes.

CHAPTER 7. ASSIGNMENTS—VOLUNTARY.

SECTIONS AS AMENDED.

Sec. 87. Personal and real property—sale of—payment for—conveyance—exceptions. Personal property conveyed shall be sold by the assignee at private or public sale, as the court may direct; and the assignee shall have power to pass title to the same as fully as the assignor could have done at the date of the assignment. Real property when sold at public sale shall be sold in the same manner and upon the same terms as real property sold at decretal sale. Provided, the purchaser shall have the right to pay cash and the assignee to accept cash in payment of the purchase price at any such sale, and the court may make such orders concerning the advertisement of the sale as it deems proper, and the assignee shall have power to convey and pass all the right and title to the same which the grantors in the deed of assignment had at its date. The report of sale shall be filed by the assignee within ten days after the sale, and if no exceptions are filed thereto, the same shall be confirmed at the second regular term after it has been filed. If exceptions are filed, they shall be heard by the court and disposed of. (Acts 1898, Chap. 42, Sec. 1. Approved March 16, 1898.)

Sec. 96. Action in circuit court for settlement allowed. The provisions of this chapter shall not prevent actions to settle estates by assignee, or by any creditor or creditors representing one fourth of the liabilities, from being brought in the circuit court; provided, that whenever a suit involving a settlement of the estate shall be brought in the circuit court of the county in which the assignment is made, the jurisdiction of the county court shall cease, and all papers relating to the estate, and filed in the county court, shall be transmitted by the clerk thereof to the clerk of the circuit court, and by him filed in such suit, and the said circuit court shall have all the power and authority to administer and settle up the assigned estate conferred on the county court by this act, in addition to its power and authority heretofore existing as a chancery court, and the assignee shall have full power and authority to sell the personal and real property belonging to the assigned estate, at public or private sale, and to convey and pass all the right and title to the same which the grantors had in the deed of assignment at its date; and said assignee shall, within ten days after such sale, report same to the circuit court in which the suit for settlement of the estate is pending, and such report shall thereupon be laid over ten days for exceptions, and if no exceptions are filed within that time, same shall thereupon be confirmed. If exceptions are filed, then such exceptions shall be heard and determined by the court. (Acts 1898, Chap. 42, Sec. 2. Approved March 16, 1898.)

CHAPTER 16. CHARITABLE INSTITUTIONS.

AMENDED SECTIONS.

Section 223.....p. 3.

NEW ACTS UNDER THIS CHAPTER.

To Require Appointment of Woman Physician in	
Insane Asylums.....p.	4.
Appropriation for Eastern Kentucky Asylum	p. 4.
Appropriation for Lakeland Asylum	p. 6.
To Authorize State to Issue Bonds to Pay Certain	
Indebtedness.....p.	6.
To Legalize Borrowing of Money by Charitable In-	
stitutions.....p.	7.
To Establish Houses of Reform.....p.	7.
Appropriation for Houses of Reform.....p.	13.

SECTIONS AS AMENDED.

Sec. 223. President and superintendent to report to auditor number of inmates and expenses—appropriation. The president of each board of commissioners and the superintendent of each institution shall, every three months, jointly certify, under oath, to the auditor of public accounts

the number of inmates actually supported by the institutions, specifying the number who do not pay any thing, the number who pay in full, and the number who pay in part, and the amount so paid, as well as the amount of any unexpended balance of the State appropriation over and above the debts and liabilities existing against the institution; and thereupon the auditor shall draw his warrant on the State treasurer in behalf of such institution for the amount allowed by law for the support of each non-paying inmate, and for so much in addition as will, when added to the sum paid by those partially dependent on the charity of the State, be equal to the amount allowed for each non-paying inmate. The amount allowed by law may be drawn in advance. Out of the annual appropriation made the board of commissioners shall pay for all repairs to and expenses of the institution, and the salary and wages of all officers and employees, but not the expenses of conveying persons to the institution; and they shall incur no liability on behalf of the State for any purpose, beyond the amount received from the treasury and from pay inmates. The auditor shall estimate any unexpended balance reported by the president and the superintendent of each institution as a part of its next quarterly allowance, and draw his warrant only for a sum sufficient with said balance to make complete the sum allowed by law for each quarter. (Acts 1896, Chap. 13. Approved March 17, 1896.)

TO REQUIRE APPOINTMENT OF WOMAN PHYSICIAN IN INSANE ASYLUMS.

(Acts 1898, Chap. 29. Approved March 15, 1898.)

Sec. 1. Asylums for insane—woman physician in—salary—rights of. That there shall be at least one woman physician appointed as one of the physicians in each of the asylums for the insane in this Commonwealth; provided, that there are women patients in each of said asylums. Said woman physician shall receive the same salary and have the same rights in such institutions as male physicians of like rank, and said woman physician shall be assigned for duty upon the ward or wards for women. Nothing herein is to be construed to require an appointment of a woman assistant physician until a vacancy occurs, or until the expiration of the term of appointment of the present assistant physicians in such institutions.

NOTE.—This Act affects Sec. 238, Kentucky Statutes.

APPROPRIATION FOR EASTERN KENTUCKY ASYLUM.

(Acts 1898, Chap. 8. Approved March 9, 1898.)

Sec. 1. Appropriation for Eastern Kentucky Asylum. That there is hereby appropriated out of the general revenue of the State the sum of thirty thousand dollars for the benefit of the Eastern Kentucky Asylum for the Insane, at Lexington, to be expended by the board of commissioners thereof in constructing adequate sewer for said institution, erecting a hospital, furnishing and equipping same, electric light plant, repairing

cold storage building, putting in new and necessary plumbing, proper fire protection, repairs to old buildings and fencing.

Sec. 2. How appropriation to be paid. The money hereby appropriated shall be drawn on drafts of the board of commissioners of said institution, and upon such draft or drafts being made to and upon him, the auditor of public accounts shall draw his warrant or warrants upon the treasurer of this State in favor of the treasurer of said asylum, for any sum or sums of money not exceeding the amount hereby appropriated to said institution, but no part of such money shall be drawn from the treasurer of said institution, except in payments for the work and improvements mentioned in section one of this act.

Sec. 3. President of board to advertise for bids for labor. The president of the board of commissioners shall advertise for bids for furnishing all labor and materials of every kind and description necessary for the construction of said sewer, the erection of said hospital and necessary equipment of same, electric light plant, and making said repairs, except such labor and materials as may be furnished by the employes or patients of said institution, and all such bids shall be opened in the presence of the board of commissioners, and it shall be the duty of the latter to accept such bid, or bids, as it may consider the lowest and best; and if, in its judgment, all, or any, of such bids shall be unsatisfactory, and said board of commissioners can provide the necessary labor and materials, or any part thereof, cheaper than by accepting such bids, it shall have the right to do so, in its discretion; and if said labor and materials, or any part thereof, shall be furnished by contract, such board of commissioners shall retain from the contract price therefor an amount sufficient to secure the faithful performance of any and all such contracts, and shall not pay the same, or any part thereof, until such contract shall have been fully and faithfully performed, accepted, and approved by such board of commissioners.

Sec. 4. Itemized statement to be approved by architect. The board of commissioners of said institution shall not pay, or cause to be paid, any part of the money appropriated by this act to any contractor, or other person or persons, employed in the construction, erecting or furnishing material for the work and repairs authorized by this act, until such contractor or contractors, or other person or persons, shall deliver to such board, or the president thereof, an itemized account of all materials furnished or labor performed, for which payment may be requested or demanded, which said itemized account shall be approved and endorsed by the architect or superintendent employed by such board of commissioners, and verified by the oath of such contractor or contractors, or other person or persons, presenting such accounts for payment; and if such account is found to be just and correct, and is approved by the board, the secretary of the board of commissioners shall note said facts, in the form of a certificate on or appended to such itemized account, and the same shall then be paid as other accounts or bills or claims against such institutions are paid by order of the board of commissioners thereof.

Sec. 5. Statement to be filed. The board of commissioners of said institution shall within three months after completing and furnishing the

buildings, as herein provided for, make an itemized statement, showing each and every item of expenditure made by such board under the provisions of this act, which said statement shall be duly verified under oath by each member of said board, and through the president of such board such statement shall be filed with the auditor of public accounts, and the president of such board shall make a full and complete statement with such auditor, and account for all moneys appropriated by this act to said institution, and upon such settlement such board of commissioners shall pay back into the treasury any unexpended balance of the appropriations herein made to such institutions, which may remain in the hands of the treasurer of such institution.

APPROPRIATION FOR LAKELAND ASYLUM.

(*Acts 1898, Chap. 23. Approved March 15, 1898.*)

Sec. 1. Appropriation. That the sum of five thousand four hundred dollars be appropriated for the purpose of buying the fifty-four acres (more or less) of land lying west of Lakeland Asylum; the said sum to be used only in purchase of said land, the land to be used for the benefit of Lakeland Asylum.

TO AUTHORIZE STATE TO ISSUE BONDS TO PAY CERTAIN INDEBTEDNESS.

(*Acts 1897, Chap. 9. Approved May 10, 1897.*)

Sec. 1. State may issue bonds. That the Commonwealth of Kentucky be, and it hereby is, authorized and empowered to issue its bonds in the aggregate amount of five hundred thousand dollars, which shall be payable in ten years from their date, and bear interest at the rate of four per centum per annum, payable semi-annually. Said bonds shall be executed for and in behalf of the Commonwealth of Kentucky by the Governor, whose signature thereto shall be attested by the Secretary of State, and they shall have the seal of the Commonwealth affixed thereto. The interest warrants or coupons shall be evidenced by the signature of the auditor lithographed or engraved and printed thereon. Said bonds and said interest warrants or coupons shall be negotiable and shall be payable either at the office of the treasurer of the State of Kentucky, or at the Bank of America, in the city of New York and State of New York.

Sec. 2. Bonds—how sold. Said bonds, when executed, shall be placed in the hands of the sinking fund commissioners for sale for account of the State. A day shall be fixed by said sinking fund commissioners upon which sealed bids shall be publicly opened by them at the office of the auditor for the purchase of the whole or any number of said bonds, and the same shall be sold to the highest and best bidder or bidders; and, if two or more bidders shall bid the same amount for the whole or any number thereof, the number allotted to such bidders shall be allotted and divided between them in proportion to the number for which their bids were made. Provided, however, that no bid shall be accepted for any of said

bonds at a price less than the par value thereof and the interest accumulated at the time of allotment.

Sec. 3. Bonds—advertisement of. The time said bids will be opened and the conditions upon which they will be received, and upon which allotments will be made, shall be advertised for at least thirty days in two daily newspapers published in the State of Kentucky and one daily newspaper published in the city of New York, State of New York; but the said sinking fund commissioners may employ any other and further means of advertising the sale of said bonds which to them may seem wise.

Sec. 4. Bonds—denomination of. Said bonds shall be of the denomination of one thousand dollars each, and shall have interest warrants or coupons attached to them evidencing the payment of the semi-annual installments of interest.

Sec. 5. Proceeds of used to pay debts of charitable institutions. The proceeds of the sale of said bonds shall be used only in the payment of that part of the existing indebtedness of the State which has been created on account of the several charitable institutions and asylums of the State, as follows: The Kentucky Institution for the Education of the Blind, the Central Kentucky Asylum for the Insane, the Eastern Kentucky Asylum for Insane, the Kentucky Institution for Feeble-Minded Children, the Western Kentucky Asylum for Insane, and the Kentucky Institute for Deaf Mutes. Such indebtedness shall be paid off and discharged by the treasurer with the funds raised by the sale of said bonds as and in the order that the warrants evidencing such indebtedness were issued.

TO LEGALIZE BORROWING OF MONEY BY CHARITABLE INSTITUTIONS.

(Acts 1897, Chap. 6. Approved May 4, 1897.)

Sec. 1. Acts and contract of charitable institutions in borrowing money legalized—how interest paid. That, whereas, the several asylums for the insane and the other State charitable institutions have, during the existing depleted condition of the State treasury, been compelled, in order to provide necessary supplies for the inmates of said institutions, to borrow money, and, in some instances, to sell treasury warrants held by them; therefore, said acts of the boards of said several asylums and institutions are hereby approved and legalized; and all contracts by which any of said asylums or institutions have procured loans or advances, at any rate of interest not exceeding the rate of six per cent per annum, shall be, and are hereby, made binding and obligatory on said several institutions, and shall be payable out of any per capita allowance heretofore or hereafter appropriated for the benefit of said institutions.

TO ESTABLISH HOUSES OF REFORM.

(Acts 1896, Chap. 33. Approved March 21, 1896.)

Sec. 1. Name and number of houses of reform—appropriation for. That there shall be established in this Commonwealth, immediately after the taking effect of this act, two institutions, one for girls, to be known as

See
Acts
1902
Ch 59
Pg 122

Amend's

the House of Reform for Girls, and one for boys, to be known as the House of Reform for Boys, and that the sum of one hundred thousand dollars be, and hereby is, appropriated, out of any funds in the State treasury not otherwise appropriated, for the purpose of purchasing grounds and the erection and furnishing of suitable buildings therefor.

Sec. 2. How governed. The general supervision and government of said institutions shall be vested in a board of trustees, consisting of six persons, three women and three men. The said trustees shall be appointed by the governor, by and with the consent of the senate, and at no time shall a majority of said trustees be members of the same political party, or of the same religious denomination. They shall hold their office for the term of six years and until their successors are appointed and qualified, but the first board appointed under this act shall hold their offices, two of them, one woman and one man, for two years, two for four years, and two for six years, and until their successors are appointed and qualified as aforesaid. Whenever a vacancy occurs in said board, otherwise than by the expiration of a term of appointment, such vacancy shall be filled by a nomination from the board, and confirmed by the governor. The trustees may be re-appointed. They shall receive no compensation for their services, but shall be allowed all expenses incurred by them in the discharge of their duties. They may be removed at any time by the governor for sufficient cause. Said board shall meet annually and elect, of their own body, a president, treasurer, and secretary, to hold their offices for one year and until their successors are elected and qualified. The treasurer and secretary shall give such bond as the governor may direct and approve. Said board shall make an annual report of their action and the condition of the institution to the governor. They shall appoint such subordinate officers and assistants as the requirements of the institutions may demand, and shall, subject to the approval of the governor, fix their salaries and prescribe their duties. They shall, with the like approval, adopt and enforce any and all such rules, regulations, and by-laws, for the government and discipline of said institutions, as they may deem useful and proper.

Sec. 3. Sites and buildings. The trustees shall have power to receive, by gift or purchase, suitable building sites for said institutions, to consist of tracts of land of not less than one hundred acres in extent, and in healthy locations in the vicinity of some city or town, but not less than three miles from the corporate limits thereof; to erect suitable buildings thereon, and to properly equip, appoint, and furnish the same.

Sec. 4. Corporate name — general powers — exemption from taxation. The trustees shall be a corporation, by the name of "The Board of Trustees of the Houses of Reform," for the purpose of taking and holding unto themselves and their successors, in trust for the State, any grant or devise of land, and any donation or bequest of money or other personal property, made for the use of said institutions, and for the purpose of preserving and investing the proceeds thereof in good securities, with all powers incident to, and necessary to, the exercise of the powers aforesaid, and to carry out and fulfill the purposes of this act. The funds, property, and estate that may be granted to, or held by, such corporation for

the uses hereinbefore expressed shall, with the income thereof, be exempted from taxation.

Sec. 5. Titles to be deposited with secretary of State — plans. The said board, having selected sites as aforesaid for the said institutions, shall immediately deposit with the secretary of the State a certificate of their determination, together with all conveyances of land granted and securities for moneys or material donated. They shall also prepare, or cause to be prepared, and adopt plans for the grounds, buildings, and fixtures necessary for said institutions, of such form, style, dimension and finish as, when completed, shall come within the cost and limit of the sum hereinbefore appropriated. The trustees shall, in the preparation and adoption of plans for the necessary buildings, keep in view, if practicable, the possible future enlargement and improvement of said buildings, and so enlarge the plans that such enlargement can be made without materially affecting their symmetry or usefulness.

Sec. 6. Proposals for buildings — contracts. Said board of trustees shall advertise for proposals for the erection and construction, furnishing, et cetera, of said buildings, and fix a time within which said proposals will be received, and upon the expiration of such time they may, in their discretion, and with the approval of the governor, make contracts with the lowest responsible bidder, taking into consideration the price, time of performance, and responsibility of the contractors. Said contract or contracts, when made and properly evidenced, shall be deposited in the office of the secretary of State.

Sec. 7. Plan of buildings — regulations as to inmates. In the construction of the buildings herein provided for, and in the arrangement of the grounds, all cells, bars, and grates shall, as far as practicable, be omitted, and what is known as the "Cottage Family Plan" shall be adopted, as it commends itself by accomplished facts as the most intelligent, economical, and successful system in use. Each of these family houses shall be occupied by from eighteen to twenty-five girls or boys, with their matron, teacher, and housekeeper. The inmates of each cottage shall be as nearly as is possible of the same character, as regards innocence or culpability, and each of said cottages, in their general arrangement and discipline, resemble, as nearly as is possible or practicable, a well ordered and regulated home.

Sec. 8. Objects of institutions. The object of these institutions shall be, not merely a place of detention, but the reformation of those who, by reason of vicious conduct or moral depravity, have rendered themselves burdensome to their relations as well as to society, and who may be, under the provisions of this act, committed to these said institutions; and it shall be the duty of each and every officer of said institutions to see that all rules and regulations are strictly enforced and observed. Kindness, firmness, and competency are qualifications which shall be required of all officers and employes, and it shall be incumbent on them to see that a kind and proper tone of feeling is observed among the inmates, and, by example and precept, to do every thing in their power to reclaim and improve the moral character of the boys and girls under their care fitting them to become good citizens and useful members of society.

Sec. 9. Duties of trustees. It shall be the duty of the board of trustees to meet once every three months, and oftener if advisable. They shall adopt, as hereinbefore said, such by-laws or system of government for the institutions as shall be regarded by them as most effective for the preservation of order, enforcing discipline, imparting instruction, and for the proper physical, intellectual, and moral training of the inmates. They may also adopt such by-laws for their own organization and government as they may see fit.

Sec. 10. Visitation—inspection. Each institution shall be visited monthly by at least two of the trustees, one woman and one man, no previous notice being given to the officers in charge of said institution of the time of such visit. Said visitors shall thoroughly examine and investigate the workings of the institution, the condition of same and all the departments thereof, including the financial management, accounts, et cetera. It shall also be the duty of the entire board, or of a majority thereof, to visit the said institutions quarterly, for the same purpose, on the occasion of which last-named visits there shall be prepared a detailed statement of the condition in every respect of the institutions, which shall be placed on record in a book kept for that purpose, and which record shall be open and subject to the inspection of the General Assembly or of any committee thereof having authority in the premises, or of any State inspector of charitable or other institutions.

Sec. 11. Inmates may be apprenticed. The board of trustees shall have power, and it shall be their duty in proper cases, to bind out such boys and girls as are proper subjects for apprenticeship to responsible and reputable persons, until they are twenty-one years of age, to learn such trades or employments as in their judgment will tend to his or her future benefit, stipulating in the indentures for the proper and needful schooling and other proper terms, and from time to time ascertaining whether the obligations of the master or mistress are fully and rightfully performed, and if not, applying such remedy as may suggest itself as proper. Scrupulous regard shall always be had to the religious or moral character of those to whom boys or girls may be bound, that such boy or girl may have the advantage of a correct training in these respects, and a good example and wholesome instruction. The trustees shall retain jurisdiction over such boys or girls thus bound out, and in proper cases order their return to the institution from which they were bound out. And no discharge from either of said institutions, unless absolute, shall defeat this jurisdiction and prevent any inmates from being recalled or returned for sufficient reasons, of which the trustees are to judge.

Sec. 12. Inmates — power of officers to arrest. The superintendent and other officers of either of said institutions shall have power to arrest, without warrant, anywhere in the State, such boys or girls as shall escape from either of said institutions, or who shall leave without proper discharge, and for that purpose may have and receive the aid of all peace officers of the State, upon proper identification, and may and shall have power to cause such boys or girls to be arrested by any such peace officer, upon identification as aforesaid, and to carry said boy or girl back to the institution from which he or she escaped.

Sec. 13. Inmates — duties of courts in committing. When any boy or girl is brought before any circuit, county, or, in cities of the first or second class, police court, being under the age of eighteen years, it shall be lawful for such court, or any of them, in its discretion, to commit such boy or girl to said houses of reform for any period of time not exceeding the minority of such child, in the following cases:

✓ (1.) Upon complaint of parent or guardian, supported by satisfactory evidence, that by reason of incorrigible and vicious conduct such boy or girl is not subject to the control of such parent or guardian, or that he or she habitually disobeys the commands of such parent or guardian, or resorts to immoral places and practices, and refuses to attend school or to perform labor suitable to his or her capacity; and that by reason thereof his or her welfare and the protection of society demand that such boy or girl be placed under such guardianship as said institutions afford.

✚ (2.) Upon complaint made by any peace officer or citizen, supported by satisfactory evidence, that owing to the above reasons, and the further reason that the parent or guardian of such infant is of such immoral character and depraved habits that he or she is incapable or unwilling to exercise the care or discipline necessary, or that, owing to the said moral depravity of the parents or guardian of such infant, he has no suitable home, and is liable to be taught to lead a disreputable and immoral life, and is consequently a proper subject for the said commitment and guardianship.

✚ (3.) Upon conviction in any of the said courts of any crime, penal offense or violation of any law of this State, or ordinance of any city, and the punishment fixed at fifteen days or more imprisonment in the penitentiary, county or city jail.

✚ (4.) When any boy or girl under the age of eighteen, as aforesaid, shall be arrested, charged with the commission of a crime, a conviction of which would subject him or her to imprisonment, the judge of any of the aforesaid courts, before which he or she is brought, may, at any stage of the trial, by the consent and at the request of the accused, or of his or her parent or guardian, arrest the progress of the same and commit the accused to said institutions.

✚ (5.) When the grand jury of any county are satisfied that there is sufficient evidence to put the accused on trial for a crime or misdemeanor, he or she being, as before stated, under the age of eighteen years, they may, instead of an indictment, return to the court a report, in writing, recommending such infant to the guardianship of the house of reform; and thereupon, if the court be satisfied from the evidence adduced that such commitment would be proper, it may order such boy or girl to be committed to said institution for any length of time, not exceeding the minority of said child. And it shall be the duty of the judge of any court sentencing a boy or girl to either of said institutions under this act to certify to the superintendent thereof the age of the person so committed, as nearly as it can be ascertained, by testimony taken under oath, and the cause for which committed.

Sec. 14. Governor to issue proclamation when buildings ready for occupancy. When such institutions have been completed, or either of them, or so far completed as to admit of the reception of inmates, it shall

be the duty of the governor to make that fact known by his proclamation, whereupon it shall be lawful for the board of trustees to receive into said institutions, or either of them, such persons as may be committed or transferred to either of said institutions in the manner or by any proceeding authorized by this act.

Sec. 15. Penalties for enticing — harboring inmates. Any person who shall entice, or attempt to entice, away from said institutions any girl or boy legally committed to the same, or who shall knowingly harbor or conceal, or aid in harboring or concealing, any boy or girl who shall have escaped from said institutions, shall, upon conviction of either of such offenses, be fined not less than twenty-five nor more than one hundred dollars, or imprisoned not exceeding sixty days, or both so fined and imprisoned. Any sheriff, policeman or constable shall have power, and it is hereby made their duty, to arrest any boy or girl known by them to have escaped from said institution, and to return him or her thereto.

Sec. 16. Religious instruction. Equal privileges shall be granted to all clergymen in good standing, of all religious denominations, to impart religious instruction to the inmates of said institutions belonging to their respective denominations. (See Chap. 24, Ky. Statutes.)

Sec. 17. Duration of confinement. Any boy or girl under the age of eighteen years, who shall be committed to either of these said institutions, shall be kept disciplined, instructed, employed, and governed under the direction of the trustees until the period of commitment shall have expired, or is bound out or dismissed as reformed, or otherwise honorably discharged under the provisions of this act. The discharge of such boy or girl, except upon the expiration of the period of commitment, shall not operate to release said boy or girl from the control of the trustees, and they may, at any time they shall deem advisable, recall such boy or girl without a second commitment. The trustees may, at any time, discharge any boy or girl in the custody of said institutions upon the advice or with the consent of the governor, or judge of the court committing said child.

Sec. 18. Instruction of inmates. The inmates of said institution shall, in addition to a common school education, receive instruction in such branches of industry, agricultural, mechanical, domestic, et cetera, as the board may, from time to time, determine; the reformation of the inmates and preparation for future self-support being kept steadily in view in the administration of these institutions; and, as conducive to these ends, the board shall introduce and carry on such branches of industry and manual training as are adapted to the age and capacity of the inmates. As far as practicable, agriculture, including horticulture, poultry raising, dairying, dressmaking, tailoring, systematic teaching of all domestic industries, and skilled cooking shall be taught and practiced by the boys and girls in such thorough and comprehensive manner as to make these institutions model schools for these particular branches, and to this end competent persons shall be employed as instructors in these branches. The inside and outside work of said institutions shall be performed by the inmates thereof.

Sec. 19. Removal of convicts from penitentiaries to. The governor may, upon application of the superintendent, or of the board of trustees

of said houses of reform, made in writing, or when it is otherwise made to appear to him that such course is expedient, cause any or all such juvenile offenders, under eighteen years of age, as are confined in the penitentiary, to be removed and transferred to said houses of reform, the expense of such removal to be borne by the State.

Sec. 20. Races to be separated. The children of white and colored races, committed to said institution, shall be provided with separate departments.

NOTE.—As to appropriation herein made see *Stone v. Trustees of Houses of Reform*, 19 R. 1977.

APPROPRIATION FOR HOUSES OF REFORM.

(Acts 1898, Chap. 35. Approved March 15, 1898.)

Sec. 1. Appropriation for inmates. That there is now and hereby appropriated for the maintenance of the House of Reform the sum of seventy-five dollars or so much thereof as may be necessary for the purpose, per annum, for each inmate in such house, or houses of reform, and it is now made the duty of the auditor of public accounts to draw his warrant on the treasury quarterly for such amount, or so much thereof as may be necessary, upon the report of the president of the board of trustees of the house of reform when approved by the governor, as herein provided.

Sec. 2. Report of president of board of trustees — how appropriation drawn. It shall be the duty of the president of the board of trustees of the house of reform to make quarterly written reports, showing the number of inmates in such house, or houses of reform, received since the last report, the number discharged, the total number confined, and the time each has been detained since the last report, and the amount necessary to maintain such inmates after deducting such receipts from the proceeds of the labor of the inmates as hereinafter provided, and such report, when approved by the governor, shall authorize and require the auditor of public accounts to draw his warrant on the treasury as provided in section one herein.

Sec. 3. Appropriation for expenses. In addition to the amount herein appropriated, there is now and hereby appropriated the further sum of five thousand dollars, payable quarterly on the warrant of the auditor, to provide for the expenses of the said institution. Provided, that only so much of said sum as shall be necessary for the payment of such subordinate officers, agents and employes shall be drawn from the treasury for that purpose, which amount shall be determined by the board of trustees and approved by the governor.

Sec. 4. Inmates to be employed — proceeds of labor. It shall be the duty of the board of trustees of the houses of reform, so far as the same can be done consistently with the purpose of the act establishing the houses of reform, to employ the inmates in useful labor, and the proceeds of such labor shall be used by them in reducing the expenses of such institutions.

Sec. 5. Appropriations—when to become available. The appropriations herein and hereby made shall not become available until the house or houses of reform shall be permanently completed and ready for the reception of inmates, which fact shall be reported to the governor and by him certified to the auditor.

CHAPTER 20. CLAIMS UPON THE TREASURY.

NEW ACTS UNDER THIS CHAPTER.

To Provide for Payment of Interest on Warrants	p. 14.
To Provide for Payment of Witness Fees in United States Courts.....	p. 15.

TO PROVIDE FOR PAYMENT OF INTEREST ON WARRANTS.

(*Acts 1897, Chap. 8. Approved May 8, 1897.*)

Sec. 1. Warrants—to bear interest. All warrants hereafter issued by the auditor (except as hereinafter provided) for claims against the State of Kentucky shall bear interest at the rate of six per cent per annum from the date of issue until paid, or until called in for payment by the treasurer, as hereinafter provided; and it shall be the duty of the auditor, when claims are presented against the State of Kentucky, to immediately audit same, and, if found to be correct, to issue a warrant therefor.

Sec. 2. Cancellation of old—issue of new. Whenever a warrant heretofore issued by the auditor for claims against the State of Kentucky shall be surrendered to the auditor for cancellation, the auditor shall immediately, as of the day of such surrender, issue a new warrant in lieu of same, which new warrant shall bear interest at the rate of six per cent per annum from date of surrender of old warrant for cancellation until paid, or called in for payment, as hereinafter provided. The auditor may, in his discretion, embrace in one new warrant the amounts due upon one or more old warrants, but each new warrant issued in lieu of old warrant or warrants shall recite on the face thereof the serial number of such old warrant or warrants, and the date or dates thereof, and also that said new warrant shall bear interest at the rate of six per cent per annum from date until paid, or called in for payment, as hereinafter provided.

Sec. 3. Record of cancelled warrants. All old warrants surrendered to the auditor for cancellation and reissue shall be cancelled by him, and kept on file as part of the records of his office; and in a book especially provided for that purpose, the auditor shall record the date, serial number, and amount of each warrant issued by him, and if issued in lieu of an old warrant or warrants, the serial numbers, dates, and amounts of old warrant or warrants, in lieu of which it was issued.

Sec. 4. Order of payment. All warrants issued in lieu of old, or outstanding warrants, as provided herein, shall be paid by the treasurer in the

order and according to date of original issue of original warrant, out of the funds specially provided for payment of claims against the State for which warrants have been, or should have been, issued, at the time this act shall have become a law; all other warrants hereafter issued by the auditor shall be paid by the treasurer in the order of and according to date of issue, out of the funds provided for the payment thereof.

Sec. 5. Treasurer to call in warrants. It shall be the duty of the treasurer, whenever there are funds in the treasury amounting to as much as three thousand dollars, to call for such number of warrants, by serial numbers, as, in the aggregate, do not exceed the funds in the treasury, to be presented to him for payment. The call of the treasurer shall by him be published for fifteen consecutive days in a daily newspaper published in this State, and no warrants so called in shall bear interest after the expiration of said fifteen days' publication; nothing herein, however, shall prevent the payment by the treasurer of warrants due, according to date of issue, if presented without awaiting such publication.

Sec. 6. Provisions herein do not apply to funds for common schools, etc. The provisions of this act as to interest on warrants, and the issue and payment of warrants, shall not apply to the application of funds provided for common schools, the Agricultural and Mechanical College, and the sinking funds; but each of said funds shall be applied and distributed as now required by law.

Sec. 7. Warrant for interest. Whenever a warrant shall be presented for payment, and payment thereof be due, according to the provisions of this act, the auditor shall draw an additional warrant for the interest ascertained to be due, which said warrant for interest shall be paid upon presentation by the treasurer at the same time the warrant on which said interest is allowed shall be paid.

TO PROVIDE FOR PAYMENT OF WITNESS FEES IN UNITED STATES COURTS.

(Acts 1896, Chap. 3. *Approved March 5, 1896.*)

Sec. 1. Fees of witnesses in cause removed from courts of this State to United States courts—how paid. That in all criminal or penal causes or prosecutions which may be removed from any of the courts of this Commonwealth to any court of the United States for this State under the provisions of any statute of the United States, the officers of such United States court and the witnesses who may be summoned and attend such court in behalf of the Commonwealth in such cases, shall be entitled to charge and receive for their services the same fees, per diem, and mileage that is allowed under United States statutes to such officers and witnesses for similar services in similar cases when summoned by and for the United States, and same shall be paid by the auditor of public accounts upon presentation of the certificate of the clerk of such United States court, approved by the judge thereof; such certificate to show the amount due each officer and witness for such service.

CHAPTER 30. CONVICT-MADE GOODS AND WARES.

CONVICT-MINED COAL.

(Acts 1897, Chap. 4. Approved April 29, 1897.)

Sec. 1. Convict-mined coal and coke and vehicles conveying same to be labeled. All coal mined or coke manufactured by convict labor in any State, and imported, brought, or introduced into the State of Kentucky, shall, during shipment and before being exposed for sale, or used in any place within this State, have a placard or label attached in a conspicuous place to the car, barge or other conveyance transporting such coal or coke, marked "Convict-mined Coal," or "Convict-made Coke," in plain English bold-faced lettering, not less than four inches in height. And all vehicles used in retailing or conveying the same within this State shall, in a similar manner, be marked or labeled in a conspicuous place.

Sec. 2. Penalty. It shall not be lawful for any person dealing in such convict-mined coal or convict-made coke knowingly to have the same in his possession for the purpose of sale or use, or to offer the same for sale, except under the conditions prescribed in and by section one of this act.

Any person offending against the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine not exceeding five hundred dollars, or to be imprisoned for a term not exceeding twelve months, or both, in the discretion of the jury or court trying the case.

CHAPTER 31. CORONER.

SECTION AS AMENDED.

Sec. 537. In cities of the first class coroner may employ stenographer—salary of same. In the cities of the first class the coroner may employ a stenographer or clerk to take down the testimony of witnesses testifying in cases of probable homicide, and to do such other clerical work as the coroner may require in the conduct of his office, and may fix the salary of such stenographer or clerk at a sum not to exceed fifty dollars per month, and the money for the salary of such stenographer or clerk shall be paid out of the treasury of such cities of the first class in the manner provided by law for the payment of all claims against such cities. (Acts 1897, Chap. 1. Approved April 16, 1897.)

CHAPTER 32. CORPORATIONS—PRIVATE.

NEW ACTS UNDER THIS CHAPTER.

To Authorize Formation of Corporations to do Both a Bank and Trust Company Business.....p.	17.
To Require Railroads to Run One Passenger Train Each Day.....p.	18.
To Provide for Reorganization of Insolvent Railroad and Bridge Companies.....p.	19.
To Give Effect to Sec. 199 of Constitution as to Right to Construct Telegraph Linesp.	21.
To Fix Conditions upon which Foreign News Cor- porations may do Business.....p.	24.

AMENDED SECTIONS.

Section 603.....p.	25.
Section 730.....p.	26.
Section 734.....p.	26.

SECTIONS HELD VOID.

Section 816.....p.	27.
Section 817.....p.	27.
Section 818.....p.	27.
Section 819.....p.	27.
Section 864.....p.	27.

TO AUTHORIZE FORMATION OF CORPORATIONS TO DO BOTH A BANK AND TRUST COMPANY BUSINESS.

(*Acts 1897, Chap. 14. Approved May 12, 1897.*)

Sec. 1. Bank and trust companies in counties of less than 100,000—capital stock. That in counties having a population of less than one hundred thousand, any number of persons, not less than seven, may associate to establish a corporation for the purpose of conducting, and it may conduct, both a banking business and a trust company business. The capital stock of such corporation shall not be less than fifty thousand dollars (\$50,000), the whole of which shall be subscribed and paid in, in money, before said corporation shall commence business, except that in such cases when the capital stock subscribed shall equal or exceed one hundred thousand dollars (\$100,000), then at least one half thereof shall be paid in in money before commencing business, and the remainder shall be paid in within twelve months thereafter. One half of such capital stock shall be securely invested for the trust business of the corporation, and shall at all times be kept separate and distinct from its other assets, and shall be primarily liable for its fiduciary obligations. The remainder of the capital

stock of the corporation may be used in its business of banking, and its books shall be so kept as to show separately at all times the condition of its banking business and the condition of its trust business.

Sec. 2. Corporation now doing business may organize under this act. Any corporation now doing either a banking or trust business may, with the consent of a majority in number and interest of its stockholders, organize under this act, and its stock, if unimpaired, may be converted into stock in the new corporation.

Sec. 3. How governed. The provisions of the act entitled, "An act providing for the creation and regulation of private corporations," which became a law April fifth, eighteen hundred and ninety-three, and known as Chapter thirty-two Kentucky Statutes, shall govern the formation of, and business conducted by, the corporations provided for by this act; that is, that portion of said act relating to banks and banking shall apply to and govern the banking business of corporations provided for by this act, and that portion thereof relating to trusts and trust companies shall apply to and govern their trust business.

NOTE.—Sec. 612, Kentucky Statutes, is affected by this act.

TO REQUIRE RAILROADS TO RUN ONE PASSENGER TRAIN EACH DAY.

(Acts 1896, Chap. 9. Approved March 17, 1896.)

Sec. 1. To run one passenger train each day. That all corporations, companies, persons or associations owning and operating a railroad line in this Commonwealth, or any branch of any railroad in this Commonwealth, the length of which exceeds five miles, shall be required and they are hereby directed to run at least one passenger train each way on every day of the year, Sundays excepted, over said line. Provided, however, that the operation of a train known as a mixed train on lines carrying passengers and freight for hire, on which both passengers and freight are carried, if operated in accordance with the provisions of this act, shall be deemed a compliance therewith. Provided, further, that the provisions of this act shall not apply to mere coal switches or any switch or branch, which is chartered and used by any corporation, company or person merely for the purpose of carrying freight or coals to their main line or track.

Sec. 2. Penalty—each day a separate offense. That any corporation, association, company or person who shall wilfully violate the provisions of this act shall be liable to a forfeiture of the charter of such corporation, company or association, and upon conviction in a court of competent jurisdiction shall be fined not less than three hundred dollars for each offense. And the failure of such corporation, company, association or person to run a train either way on any day during the year, Sundays excepted, shall be considered and treated as separate and distinct offense.

Sec. 3. Penalties—how recovered. The penalties herein denounced may be recovered by indictment in the circuit court of any county through which the track of such railroad extends, or by information lodged by the county or Commonwealth's attorney, or by an ordinary suit for penalties.

Sec. 4. Duty of circuit judge. That it shall be the duty of the judge of the circuit court of each county through which the line of railroad extends to give in charge to the grand jury the provisions of this act, at each session of the circuit court held in any county through which the line of such road extends.

TO PROVIDE FOR REORGANIZATION OF INSOLVENT RAILROAD
AND BRIDGE COMPANIES.

(Acts 1896, Chap. 21. Approved March 17, 1896.)

Sec. 1. When insolvent companies may reorganize—plan. Whenever any company owning or operating a railroad in Kentucky, or any company owning or operating a bridge over a navigable stream constituting a boundary of the State of Kentucky, shall be insolvent, and shall come into the hands of any court under proceedings to enforce any mortgage or deed of trust or for the payment of debts, it shall be lawful for the holders of a majority of any class of securities issued by such company or any class of creditors of such company, to prepare and submit to such court a plan for the reorganization of the company. Such plan shall provide: First—For the payment of all taxes and assessments due and owing by such company. Second—For the payment of all debts for labor and materials and supplies due by said company, and for which a lien shall exist on the property thereof under the law of the State of Kentucky. Third—For the payment of any debt due, or the assumption of any debt not due, and for which there shall exist a lien prior and superior to the claim of the class of creditors or security-holders proposing such plan. Fourth—For the issue of new classes of securities, which shall be for distribution among the creditors or the holders of the class of securities proposing such plan, and of subordinate and inferior securities or debts, and providing for such distribution. Such plan shall, as far as practicable, regard the relative rights and priorities of the different classes of creditors or security-holders.

Sec. 2. Court to give notice of filing of plan—objections—adoption. When any such plan as above provided shall be filed with the court, it shall be the duty of the court to give such notice, by publication or otherwise, as it may order, that a plan of reorganization has been filed in the cause, and that any holder or holders of any securities, or any creditor of such company, shall be entitled to file objections thereto, and shall be entitled to be heard in person or by attorney on the subject thereof; and if, upon the hearing thereof, and upon consideration of such plan, the court shall approve the same with such alterations and amendments as the court shall adopt, and such plan or scheme so approved shall receive the assent of the holders of three fourths of the class of securities proposing the same, and a like proportion of all other classes of creditors subordinate thereto, and the court shall be of opinion that the said plan and scheme of reorganization is fair and equitable, and has made reasonable provision for the holders of all securities of said companies, the court shall adjudge and order that said plan or scheme of reorganization shall be adopted and carried out, and shall make proper provision for the execution thereof.

Sec. 3. Creditors not objecting deemed to be assenting — surrender and cancellation of old securities — claims prior to passage of this act. All creditors and persons holding securities of the said company, and not objecting to such plan of reorganization, shall be deemed to have assented thereto, and upon the entry of such order of approval, the court may require from any creditor or person holding any of the securities of said company embraced by the said plan to surrender for discharge or cancellation such outstanding claims or securities, and receive in lieu or on account thereof the new securities provided in such plan. But where claims have arisen or securities have been issued prior to the passage of this act, and any holder of such claims or securities shall object to the plan of reorganization, there shall be inserted in such plan a provision for preserving and maintaining the right of such holder so as not to impair the obligation of his contract.

Sec. 4. Court may order sale — rights of security-holders. If no such plan be proposed or approved, the court may, within such time as the court may deem proper, order a sale of the property of any such company being so administered, after such notice as shall seem to the court sufficient. At any such sale, or at any sale which shall be hereafter made, of any railroad or bridge under any decree of sale, the purchaser or purchasers shall be required to pay the amount of the bid in cash. Provided, however, that if the property shall be purchased by or in behalf of holders of any class of securities issued by the said company, the purchaser or purchasers shall be required to pay in money or securities, immediately, such amount only as the court may deem sufficient to provide against a non-compliance with the bid; and the purchaser or purchasers shall thereafter be entitled, within such time as may be fixed by the court, to pay the amount of the bid by the payment of such money as may be necessary, and by the surrender of securities in proportion as such securities shall be entitled to receive the purchase money; and all holders of the same class of securities shall be entitled to have and enjoy equal rights in any such purchases with other holders of the same class. Such purchaser or purchasers under this latter provision shall, before adopting any article of incorporation, or transferring the property to any corporation formed for the purpose, present and file with the court, in which the decree of sale was entered, a plan of reorganization with substantially the provisions required in the preceding sections, and which shall likewise be subject to the approval of the court; and when the same shall have been so approved, and an order to that effect, and providing for the execution thereof, shall have been entered, the said purchaser or purchasers may adopt articles of incorporation under and in accordance with the laws of the State of Kentucky providing for the incorporation of such companies.

Sec. 5. Securities — what are. The word "securities," as used in this act, shall embrace bonds, debentures, preferred and common stock, and other issues of obligations or certificates of substantially similar character, and the provisions hereof shall apply, as far as may be, to proceedings in relation to any separate division, or portion or branch of any railroad on which are charged any separate issues of securities.

Sec. 6. Property partly in another State. Where the property of any such company shall be partly within and partly without this State, the plan of reorganization may make provisions for including the property without the State in such plan, in such manner as may be consistent with laws of the State where situated.

TO GIVE EFFECT TO SEC. 199 OF CONSTITUTION AS TO RIGHT TO CONSTRUCT
TELEGRAPH LINES.

(Acts 1898, Chap. 49. Approved March 19, 1898.)

Sec. 1. Right of telegraph company to construct and maintain lines. That a telegraph company chartered or incorporated by the laws of this or any other State, shall, upon making just compensation as hereafter provided, have the right to construct, maintain, and operate telegraph lines through any public lands of this State, and on, across, and along all highways and turnpikes, and across and under any navigable waters, and on, along and upon the right of way and structures of any railroad in this State. Provided, that the posts, arms, insulators, and other fixtures of such telegraph lines be erected and maintained in the usual manner of constructing, operating, and maintaining telegraph lines on or along and upon the right of way of railroads, and on, across, and along the highways, and across and under navigable waters, and in such manner as not to interfere with the ordinary use or the ordinary travel and traffic on such highways, railroads or waters, or that of any other telegraph line already constructed on the right of way of any railroad.

Sec. 2. May contract with railroad companies, etc. That whenever any telegraph company desires to construct, operate, and maintain its lines on, along or upon the right of way and structure of any railroad, or upon and along the roadways of any incorporated turnpike, it may through an authorized agent agree and contract with such railroad and turnpike companies for such right.

Sec. 3. Condemnation proceedings—petition to be filed. That in case any telegraph company having the rights and privileges herein granted is unable to agree with such railroad or turnpike company for the exercise of such rights and privileges, such telegraph company may file its petition, sworn to by its agent, in the office of the clerk of the county court of any county in which any portion of such railroad or turnpike is situated or may run, and one proceeding shall be sufficient to condemn the right of way herein provided for of any railroad or turnpike in this State. Said petition shall designate the railroad or turnpike, as the case may be, and the particular use, right, easement or privilege sought to be condemned, and shall state the name of the petitioner, where incorporated, how, and in what manner, and with what kind of material it proposes to construct its telegraph line, and that it has complied with the constitution and laws of this Commonwealth in regard to such corporations seeking to exercise right of eminent domain. An application in writing by an authorized agent of such telegraph company, delivered to the president or any general officer

of any railroad or turnpike company, proposing to agree with such company upon the compensation to be paid and offering therefor a sum certain for such rights and privileges, not accepted in ten days thereafter, in writing, by such president, general officer, or some one else duly authorized, may be treated as a failure to agree with such railroad or turnpike company.

Sec. 4. Proceedings—jury. That such petition, as hereinbefore provided for, may be filed at any time, and the proceedings thereunder had shall be *in rem* against such railroad and structures and turnpike roadway, and, upon the filing of such petition, the clerk of said county court shall issue a summons, which shall be executed by the sheriff, upon any agent of such railroad or turnpike company in said county, notifying such railroad or turnpike company of such proceedings and to appear to the next term of the said county court to be held in and for said county, and make any lawful defense thereto if it sees proper so to do. This summons must be served upon such agent at least ten days before the terms of court to which it is returnable, and such clerk shall also issue a writ of *feri facias*, commanding the sheriff to summons and have on the first day of said court to which said cause is returnable, a special venire of eighteen good and lawful men, citizens, and qualified jurors of said county, to serve as jurors in said cause. To which jurors either party may have as many challenges and for the same causes as in the trial of other civil causes in the circuit courts of this Commonwealth, and from said special venire and talesmen, if necessary, a jury of twelve shall be empanelled, who shall be sworn by the clerk or judge of said court, as follows: "I do solemnly swear that as a member of this jury, I will a true verdict render in this cause, assessing for the defendant the actual cash value of so much of its land as may be shown by the proof will be actually taken and occupied by the petitioner, and such other incidental damages, if any, as shown by the proof will accrue to the remainder of the right of way for the purpose for which it is held by the defendant, by reason of the construction of petitioner's telegraph line in the manner set out in the petition, so help me God."

Sec. 5. Proof. That the court shall admit any relevant testimony either party may offer to prove the cash market value of the land that will be taken and occupied by the petitioner, and all actual damages that will accrue to the defendant in the diminution of the value of the remainder of its right of way for railroad or turnpike purposes, as the case may be, by reason of the construction of the telegraph line upon such right of way in the manner set out in the petition; and in considering incidental damages to the defendant, they may take into consideration any advantages that may accrue to the defendant as shown by the proof, by reason of the construction of such telegraph line.

Sec. 6. Form of verdict. The jury shall not be required to go upon or view such right of way, and shall return their verdict on the form following: "We, the jury, assess the damages and just compensation to be paid by the to be dollars" ; and the form of the verdict may be given the jury by the court.

Sec. 7. Judgment. That upon the return of the verdict the court shall enter up a judgment as follows: "In this case, the claim of the

..... Telegraph Company, to have condemned for its use the right to construct, operate, and maintain the line of telegraph upon the right of way of the defendant in this State, in the manner set out in its petition, was submitted to a jury composed of (here insert the names), on the day of A. D.,, and said jury returned a verdict fixing said defendant's due compensation and damages at dollars, and the verdict was received and entered. Now when payment of said award either to the defendant or to the clerk of this court, and all costs in this behalf expended, said Telegraph Company may enter upon said land and appropriate so much thereof as may be necessary, as prayed for in its petition."

Sec. 8. Appeal. That either party shall have the right to appeal from said judgment to the court of appeals, within thirty days after the rendition of said judgment, upon entering into bond with sureties, to be approved by the court or judge in vacation in the sum of two hundred dollars, conditioned to pay all costs that may be adjudged against it if said cause shall be affirmed. But an appeal by the defendant shall not operate as a supersedeas provided the telegraph company shall enter into bond with sureties to be approved by the court in double the amount of the award payable to the defendant in case said cause shall be reversed, and upon the execution of such bond may construct its telegraph line upon the right of way as prayed for in its petition.

Sec. 9. As to mortgagees of condemned property. That no notice of the condemnation proceedings herein provided for shall be given to any mortgagee of the defendant, but in the event there be any mortgage recorded in the county where such proceedings are had, upon the property condemned, then the damages and compensation awarded by the jury shall be paid to the clerk of said court, whose duty it shall be forthwith to mail written notice of such proceedings and of said award to the mortgagee or trustee named in said mortgage, who may contest with the said defendant for the same, if he sees fit so to do.

Sec. 10. Lines heretofore constructed — duty of company as to same. That if any telegraph company has heretofore constructed its line of telegraph upon the right of way of any railroad or turnpike company in this State, such railroad or turnpike company shall petition the county court of any county through which said line is constructed, to have its damages and compensation assessed against such telegraph company, and like proceedings shall be had as if instituted by such telegraph company as herein provided for, and the payment by such telegraph company of the award that may be made in such a case shall entitle such telegraph company to maintain and operate its telegraph line as if it had been constructed by virtue of this act, and in such proceeding the telegraph company shall pay the costs of such suit unless it shall, before such suit be instituted, offer to pay such railroad or turnpike company a sum more than the award of the jury, and, if the award of the jury be less than the sum offered by such telegraph company for such right or privilege, then the cost of said proceedings shall be adjudged against such railroad or turnpike company, as the case may be; and the failure to institute such proceedings

by such railroad or turnpike company within ninety days after this act shall take effect, be a waiver of its right to recover damages in any amount or in any proceeding against such telegraph company for the use and occupation of so much of its right of way as is used by said telegraph company.

Sec. 11. Fees of officers. That the officers of the said court and the jury shall be allowed the same compensation for their services as by law are allowed in civil suits for like services.

TO FIX CONDITIONS UPON WHICH FOREIGN NEWS CORPORATIONS MAY DO BUSINESS.

(*Acts 1898, Chap. 68. Passed March 10, 1898.*)

Sec. 1. Foreign corporations to make no discrimination in vending news. That all foreign corporations formed for the purpose or engaged in the business of buying, gathering or accumulating information or news, or of vending, supplying, distributing, or publishing the same, shall, as a condition of carrying on any part of said business in this State, at all times vend, supply, distribute, and publish the news and information bought, gathered or accumulated by it to any and all persons, firms, and corporations organized under the laws of this State, or carrying on in this State the business of conducting or publishing a newspaper, where such person, firm or corporation desires to buy or be supplied with such news and information so bought, gathered or accumulated by such foreign corporation, and in vending, supplying, distributing, and publishing the news and information so bought, gathered or accumulated by such foreign corporation, no discrimination in charges or prices shall be made by such foreign corporation between any of the persons, firms or corporations doing business in this State and desiring to purchase or be supplied with such information and news.

Sec. 2. Penalty. It shall not be lawful for any foreign corporation or any agent or employe of such corporation formed for the purpose or engaged in the business of buying, gathering or accumulating information or news, or vending, supplying, distributing or publishing the same, to transact any of the business of such corporation if it shall have refused to vend, supply, distribute or publish the information or news bought, gathered or accumulated by it to any person, firm or corporation engaged in this State in carrying on the business of conducting or publishing a newspaper, when such person, firm or corporation has notified such foreign corporation or any agent upon whom process can be served under the laws of this State of his, their or its desire to purchase or to be supplied with said news or information so bought, gathered or accumulated by such foreign corporation, and upon his, their or its offer to pay same charges or prices therefor which are exacted by said foreign corporation against other persons, firms or corporations engaged in this State in the business of conducting or publishing a newspaper, and any such foreign corporation, and any agent or employe of such foreign corporation, or any other person who shall carry

on, transact, or cause to be conducted any business in this State for such foreign corporation after it shall have failed or refused to comply with any of the requirements of this act, shall be severally guilty of a misdemeanor, and upon conviction fined not less than one hundred dollars nor more than one thousand dollars for each offense, and each day's continuance of any part of the business of such foreign corporation in this State after it shall have failed to comply with any of the provisions of this act shall constitute a separate offense.

Sec. 3. Forfeiture of charter. A violation of the provisions of this act shall, upon conviction, operate to forfeit the charter of the corporation, or proceedings may be instituted by the attorney for the Commonwealth in any district within the State to forfeit the charter of any corporation violating the provisions of this act and to subject the party charged, if found guilty, to the penalty imposed in section two of this act.

Sec. 4. Telegraph and telephone companies—penalty. Every telegraph company, every telephone company, or every association, or company engaged in the buying, gathering or transmitting of dispatches, shall afford the same and equal facilities to all publishers of newspapers and furnish to all parties collected by them for publication, in any county or locality, to all newspapers there published on the same condition as to terms, payment, and delivery; and for a violation of any of the provisions of this section, shall for such violation be guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars nor more than one thousand dollars, and if a corporation or association, shall upon conviction forfeit its charter.

SECTIONS AS AMENDED.

Sec. 603. Corporators—amount of capital—statement of increase or reduction in capital stock to be filed. Any number of persons, not less than seven, may associate to establish a corporation for the purpose of conducting a trust business under the provisions of this article; but the capital stock of any such company shall not be less than twenty-five thousand dollars, in counties having a population of twenty-five thousand or less; and not less than fifty thousand dollars, in counties having a population of over twenty-five thousand and less than forty thousand; and not less than one hundred thousand dollars, in counties having a population of over forty thousand and less than one hundred thousand; and not less than two hundred thousand dollars, in counties having a population of over one hundred thousand; and a statement of any increase or reduction in the capital stock shall be signed and acknowledged by the president and a majority of the directors, and filed and recorded in the same manner as articles of incorporation. (Acts 1896, Chap. 31. Approved March 21, 1896.)

NOTE.—This section amended by Acts 1898. See below.

Sec. 603. Corporators—amount of capital—statement of increase or reduction in capital stock to be filed. Any number of persons, not less than seven, may associate to establish a corporation for the

purpose of conducting a trust business under the provisions of this article; but the capital stock of any such company shall not be less than fifteen thousand dollars, in counties having a population of twenty-five thousand or less; and not less than fifty thousand dollars, in counties having a population of over twenty-five thousand and less than forty thousand; and not less than one hundred thousand dollars, in counties having a population of over forty thousand and less than one hundred thousand; and not less than two hundred thousand dollars, in counties having a population of over one hundred thousand; and a statement of any increase or reduction in the capital stock shall be signed and acknowledged by the president and a majority of the directors, and filed and recorded in the same manner as articles of incorporation. (Acts 1898, Chap. 32. Approved March 15, 1898.)

Sec. 730. Capital stock. No such corporation shall be formed with a smaller capital than twenty-five thousand dollars for the transaction of business in counties having a population of twenty-five thousand or less; and not less than fifty thousand dollars for the transaction of business in counties having a population of over twenty-five thousand and less than forty thousand; and not less than seventy-five thousand dollars for the transaction of business in counties having a population of over forty thousand and less than seventy-five thousand, and not less than one hundred thousand dollars for the transaction of business in counties having a population of over seventy-five thousand and less than one hundred thousand; and not less than one hundred and fifty thousand dollars for the transaction of business in counties having a population of over one hundred thousand. (Acts 1898, Chap. 46. Approved March 17, 1898.)

Sec. 734. Guarantee fund — amount and application of. Every such corporation shall set apart at least two fifths, but in no case less than two thirds of the minimum stock required by this act, of the amount of its paid-up capital stock as a guarantee fund, and the said fund shall be invested only in bonds of the United States of America and bonds and mortgages, lien-notes or deeds of trust on unincumbered real estate within the State of Kentucky, worth at least fifty per centum more than the sum loaned thereon; but in estimating the value of such real estate the value of the building thereon shall be excluded, unless such buildings be insured against fire and the policy transferred to the corporation, and such insurance shall be continued in force as long as the loan continues. No such corporation shall issue any insurance until such sum has been set apart and invested. Such guaranty fund shall be kept and applied only for the security and payment of losses and expenses which may be incurred by reason of the guaranties or insurance made as aforesaid, and shall not be subject to other liabilities of the corporation to the extent of and so long as any such insurance is outstanding. In case an increase in the amount of its capital stock shall be made by any such corporation, two-fifths part of such increase shall be set apart and added to the guarantee fund thereof, and kept and invested as aforesaid. Whenever, on account of losses or otherwise, the amount of the guarantee fund shall fall below such sum as is required to be set apart and invested

by this act, no further insurance shall be issued until the deficiency below the amount so required has been supplied. (Acts 1898, Chap. 46. Approved March 17, 1898.)

SECTIONS HELD VOID.

Sec. 816. Held void for uncertainty in *L. & N. R. R. Co. v. Commonwealth*, 99 Ky. 132.

Sec. 817. Held void in part in *L. & N. R. R. Co. v. Commonwealth*, 20 R., p. —.

Sec. 818. Held void for uncertainty in *Commonwealth v. L. & N. R. R. Co.*, 20 Ky. Law Reporter, 491.

Sec. 819. Held void for uncertainty in *L. & N. R. R. Co. v. Commonwealth*, 99 Ky. 132. See also *L. & N. R. R. Co. v. Commonwealth*, 20 R., p. —.

Sec. 864. Held void in part in *Simpson v. Ky. Cit. Building & Loan Assn.*, 19 R. 1176.

CHAPTER 34. COUNTIES.

NEW ACTS UNDER THIS CHAPTER.

To Establish Office of Jail Physician in Counties
Having Population of 150,000 or more.....p. 27.

AMENDED SECTIONS.

Section 908p. 28.
Section 909p. 28.
Section 911p. 28.

TO ESTABLISH OFFICE OF JAIL PHYSICIAN.

(*Acts 1898, Chap. 27. Approved March 15, 1898.*)

Sec. 1. How elected—term of office. That the county judge and justices of the peace of counties having a population of 150,000 or more, and the justices of the peace of any city within such counties, shall, on the first Tuesday of October, eighteen hundred and ninety-eight, and on the first Tuesday of October every fourth year thereafter, elect a physician to the jail of their respective counties, who shall enter upon the discharge of the duties of said office on the first of November following, and shall hold the office for the term of four years, and until his successor shall qualify.

Sec. 2. Duties. It shall be the duty of said physician to attend upon and prescribe for all persons who may be confined in said jail by order of the courts of the State.

Sec. 3. Salary. That said physician shall receive as compensation for his services, the sum of fifteen hundred dollars (\$1,500) per annum; to be

paid by the county, except in counties containing cities having a separate government, their pro rata as may be agreed upon by said city and county.

Sec. 4. When act to take effect. This act shall take effect on and after the first Tuesday in October, eighteen hundred and ninety-eight.

Sec. 5. Repealing clause. All laws and parts of laws coming in conflict with this act are hereby repealed.

SECTIONS AS AMENDED.

Sec. 908. Records — official indexer — appointment — removal — term of office — qualifications. That in each and every county within this Commonwealth having a population of seventy-five thousand or more, and constituting of itself a separate judicial district, the judge of the county court, with a concurrence of a majority of the circuit judges, shall, in the month of January, one thousand eight hundred and ninety-eight, and in the same month every four years thereafter, appoint as official indexer of the public records in such county, some competent person who shall possess the same qualifications of eligibility as the clerk of a county court, and whose term of office shall begin on the first Monday in February following his appointment, and expire on the first Monday in February, four years thereafter, subject, however, to removal at any time by the judges of the aforesaid courts for incompetency or neglect of duty. (Acts 1897, Chap. 24. Approved May 26, 1897.)

Sec. 909. Indexes — how to be arranged. It shall be the duty of such indexer, subject to the order of the various courts of his county, to compile general cross-indexes to the records of such courts, and to the records contained in the offices of the clerks thereof, arranging alphabetically the surnames of the parties in interest appearing upon said records, according to their initial letters, and the arrangement of the various vowels and consonants therein, the accuracy and acceptability of which general indexes shall be passed upon respectively by the court ordering same. And said indexer shall upon order of the judge of the county court transcribe any of the public records of the county and quarterly courts, and the county clerk's office, and upon the order of the judges of the circuit court, said indexer shall transcribe any of the records of their court and of the circuit clerk's office that may be in a ruined, torn, or obliterated condition, and shall, on the order of said judges respectively make cross-indexes of public records in said respective court, or clerk's office, and on the order of either of said courts, shall perfect existing indexes, and he shall do all this without additional compensation. (Acts 1897, Chap. 24. Approved May 26, 1897.)

Sec. 911. Compensation — appointment and salary of assistants. The official indexer, appointed as aforesaid, shall receive for his services a sum fixed by the judges appointing and confirming him, not exceeding the constitutional limitation; and said indexer may appoint his own assistants, subject to the approval of said judges, but their compensation shall rest

entirely in the discretion of the judges aforesaid, and such compensation shall be paid as the salary of the county judge is paid. Provided, however, that at no time shall the total expense annually, under this act, exceed the sum of eight thousand dollars. (Acts 1897, Chap. 24. Approved May 26, 1897.)

CHAPTER 35. COURTS OF JUSTICE.

NEW ACTS UNDER THIS CHAPTER.

Act for Relief of Court of Appealsp. 29.

AMENDED SECTIONS.

Section 950.....p. 30.
Section 965.....p. 30.
Section 1050.....p. 31.

ACT FOR RELIEF OF COURT OF APPEALS.

(Acts 1897, Chap. 17. Became a law May 11, 1897.)

Sec. 1. Court of appeals — judges of may employ clerical assistants — term of office — compensation — removal. That the judges of the court of appeals are hereby empowered to employ clerical assistants for each of said judges, and to fix the compensation to be paid such assistants. Said compensation shall be paid monthly out of the treasury upon the warrant of the auditor of public accounts, which shall be issued upon the certificate of the chief justice of the court. Said assistants shall hold their positions for not more than two years from date of their appointment, and shall be subject to removal at the pleasure of said judges. The compensation of such assistants shall not exceed in the aggregate the sum of six thousand dollars (\$6,000) per annum.

NOTE.—This act was amended by Acts 1898, see below.

(Acts 1898, Chap. 58. Received March 12, 1898.)

Sec. 1. Court of appeals — judges of may employ clerical assistants — term of office — compensation — removal. That the judges of the court of appeals are hereby empowered to employ clerical assistants for each of said judges for the period of two years from the expiration of the terms of the present assistants, and to fix the compensation to be paid such assistants. Said compensation shall be paid monthly out of the treasury upon the warrant of the auditor of public accounts, which shall be issued upon the certificate of the chief justice of the court. Said assistants shall be subject to removal at the pleasure of said judges. The compensation of such assistants shall not exceed in the aggregate the sum of six thousand dollars (\$6,000) per annum.

SECTIONS AS AMENDED.

Sec. 950. Jurisdiction in civil cases. No appeal shall be taken to the court of appeals from a judgment for the recovery of money or personal property, if the value in controversy be less than two hundred dollars, exclusive of interest and costs, nor to reverse a judgment granting a divorce or punishing contempt, nor for any order or judgment of a county court, except in actions for division of land and allotment of dower, nor from any order or judgment of a quarterly, city, police, fiscal or justice's court, nor from any bond having the force of a judgment. In all other civil cases the court of appeals shall have appellate jurisdiction over the final orders and judgments of all courts.

All laws in conflict herewith are hereby repealed. (Acts 1898, Chap. 19. Approved March 14, 1898.)

Sec. 965. Eighth district. In Allen county, at Scottsville, on the third Monday in January, twelve juridical days; on the third Monday in April, twelve juridical days, and on the third Monday in September, twelve juridical days. In Butler county, at Morgantown, on the first Monday in February, twelve juridical days; on the first Monday in May, twelve juridical days, and on the second Monday in October, eighteen juridical days. In Edmonson county, at Brownsville, on the third Monday in March, twelve juridical days; on the third Monday in June, twelve juridical days, and on the first Monday in December, twelve juridical days. In Warren county, at Bowling Green, on the first Monday in January, twelve juridical days; on the first Monday in April, twelve juridical days, and on the first Monday in September, twelve juridical days. On the third Monday in February, twenty-four juridical days; on the third Monday in May, twenty-four juridical days, and on the first Monday in November, twenty-four juridical days. (Acts 1896, Chap. 19. Approved March 17, 1896.)

Sec. 965. Twelfth district. (In last three lines read) . . . Anderson county, at Lawrenceburg, on the second Monday in April and the first Monday in December, twelve juridical days each; on the fourth Monday in August, six juridical days. (Acts 1897, Chap. 5. Approved May 4, 1897.)

Sec. 965. Thirteenth district. Mercer county, at Harrodsburg, on the first Monday in February and continue eighteen juridical days; on the second Monday in May and first Monday in October and continue twenty-four juridical days each. Boyle county, at Danville, on the third Monday in January and continue twelve juridical days; on the third Monday in April and second Monday in September and continue eighteen juridical days each. Lincoln county, at Stanford, on the fourth Monday in February and continue twelve juridical days; on the second Monday in June and first Monday in November and continue eighteen juridical days each. Garrard county, at Lancaster, on the second Monday in March and third Monday in August and continue eighteen juridical days each, and fourth Monday in November and continue eighteen juridical days. (Acts 1897, Chap. 13. Approved May 12, 1897.)

Sec. 965. Twenty-third district. Wolfe county, at Campton, on the third Monday in January, fourth Monday in April, and third Monday in September, and continue twelve juridical days each term. Magoffin county, at Salyersville, on the Monday succeeding each Wolfe term, and continue twelve juridical days each term. Breathitt county, at Jackson, on the first Mondays in March, June, and November, and continue eighteen juridical days each term. Estill county, at Irvine, on the fourth Mondays in March, June, and November, and continue twelve juridical days each term. Lee county, at Beattyville, on the Monday succeeding each Estill term, and continue twelve juridical days each term. (Acts 1898, Chap. 21. Approved March 15, 1898.)

Sec. 965. Twenty-fourth district. Floyd county, at Prestonsburg, on the first Monday in January, the first Monday in April, and the first Monday in September, and each term continue eighteen juridical days. Pike county, at Pikeville, on the Mondays succeeding the termination of each Floyd term, and continue eighteen juridical days each. Johnson county, at Paintsville, on the Mondays succeeding the termination of each Pike term, and continuing twelve juridical days each. Martin county, at Inez, on the Mondays succeeding the termination of the Johnson term, continuing twelve juridical days each. Knott county, at Hindman, on the Mondays succeeding the termination of the Martin term, except the fall term, which shall begin on the Monday following the general November election, continuing twelve juridical days each. (Acts 1898, Chap. 3. Received March 2, 1898.)

Sec. 965. Twenty-sixth district. Bell county, at Pineville, on the second Monday in January, to continue until Saturday before the first Monday in February; first Mondays in May and October, thirty juridical days each. Harlan county, at Harlan Court-house, on the first Monday in February, second Mondays in August and November, twelve juridical days each. Letcher county, at Whitesburg, on the third Monday in February, fourth Mondays in August and November, twelve juridical days each. Perry county, at Hazard, on the first Monday in March, second Mondays in September and December, twelve juridical days each. (Acts 1898, Chap. 5. Approved March 9, 1898.)

Sec. 1050. County judge to preside — terms of court. The quarterly court shall be presided over by county judge, and there shall be held in each county at least four terms of the quarterly court each year, at intervals of three months and upon such days as the county judge may fix, by an order entered upon the order book of said court; but the county judge may by an order so entered provide for the holding of monthly terms, or for continuous sessions of his said court, but such order must be made at a regular term of said court; and not to take effect until sixty days thereafter. The terms of the court shall remain as now established until changed as herein provided. At each term the court shall remain in session as long as the business requires it. (Acts 1898, Chap. 61. Received March 12, 1898.)

CHAPTER 36. CRIMES AND PUNISHMENTS.

NEW LAWS UNDER THIS CHAPTER.

Mobs	p. 32.
Interfering with Public Speaker.....	p. 35.
Wearing Badges of Societies.....	p. 35.
Adulterating Food.....	p. 35.
Labeling Canned Goods.....	p. 37.
Distilling Under False Name.....	p. 38.

AMENDED SECTIONS.

Section 1279	p. 39.
Section 1284.....	p. 41.

SECTION REPEALED.

Section 1312.....	p. 41.
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MOBS.

(*Acts 1897, Chap. 20. Approved May 20, 1897.*)

Sec. 1. Mobs — to injure persons — penalty. If any two or more persons shall confederate or band themselves together for the purpose of intimidating, alarming, disturbing or injuring any person or persons, or to rescue any person or persons charged with a public offense from any officer or other person having the lawful custody of any such person or persons, with the view of inflicting any kind of punishment on them, or with the view of preventing their lawful prosecution for any such offense, or to do any felonious act, they, or either of them, shall be deemed guilty of a felony, and upon conviction shall be confined in the penitentiary not less than one nor more than five years.

NOTE.—On same subject see Ky. Statutes, 1223.

Sec. 2. Mobs — to injure property — penalty. If any two or more persons shall confederate or band together and go forth, for the purpose of molesting, injuring or destroying any property, real or personal, of another person, persons or corporation, whether the same be injured, molested or damaged or not, they shall be guilty of a felony, and upon conviction shall be confined in the penitentiary not less than one nor more than five years.

Sec. 3. When injury results — felony — penalty — also liable in damages. If any injury shall result to the person or property of any person or persons, by reason of any unlawful acts denounced in the preceding section of this act, the person or persons engaged or participating, or any one of them, or any one aiding or abetting such unlawful act, shall be guilty of a felony, and upon conviction shall be confined in the State penitentiary not less than one nor more than fifteen years, unless death should result, in which case the penalty for such offense shall be as now prescribed

by law. It shall be no mitigation of the offense for any one, upon his trial for a violation of the provisions of this section, that he may have acted through heat or passion, or that he may have acted without malice, and the judge trying the case shall so instruct the jury in writing. The persons composing such mob or riotous assemblage shall be individually and collectively liable in damages, actual and punitive, to the owner or owners of property so damaged or destroyed, to be recovered by suit at law in any court having jurisdiction of the amount in controversy.

Sec. 4. Guards to protect prisoners—penalty for failure to obey officer—prisoners may be armed. Any officer or person having the custody of the person or persons charged with a public offense shall have the power, and it shall be his duty, to summon to his aid as many of the able-bodied male citizens of his county, between the ages of twenty-one and fifty years, as may be necessary for the protection of any such person or persons in his custody, and every such person who shall fail or refuse to obey such summons or verbal notice of such officer shall be fined in any sum not less than one hundred dollars nor more than five hundred dollars. Any officer having knowledge or reasonable grounds to believe that an effort will be made to rescue, injure or kill any person or persons in his custody charged with a public offense shall immediately provide such means as will be necessary to prevent any such unlawful act or acts; and any officer who may be in charge of any jail in this Commonwealth, in which is incarcerated any such person or persons charged with a public offense, when he has reasonable grounds to believe that said jail will be attacked by a mob or persons confederated or banded together for the purpose of inflicting violence upon any inmate of said jail, may, in his discretion, arm said threatened inmates, with a view to their own protection.

NOTE.—As to officer summoning aid, see Ky. Stat., Secs. 4578, 1340; as to Guards, Sec. 2044.

Reple **Sec. 5. Guards to protect property—time of service.** That upon information being lodged with any county judge or circuit judge in this Commonwealth by any reliable and credible person or persons, stating under oath that he has information or knowledge that causes him to believe, and that he or they actually believe, that two or more persons have banded or confederated together, or are about to do so, for the purpose of injuring or destroying any property, real or personal, tollgate, tollgate house, bridge or other property of any person, turnpike or railroad company or other corporations in the county, or for the purpose of intimidating or preventing the keeper of any tollgate or bridge from collecting toll, and shall describe the said property or person threatened, it shall be the duty of the said county judge or circuit judge to at once order the sheriff or any constable of the county to summon a posse of not less than two nor more than ten discreet, able-bodied men, between twenty-one and fifty years of age, for each piece of property threatened with injury or destruction, to be placed at or in such property, armed with guns and ammunition, until the judge is satisfied the cause no longer exists, not to exceed thirty days at any one time. Provided, however, at the expiration of thirty days, if the court is satisfied, from information from a reliable

source, that if said guard or guards are removed the property will be injured or destroyed, he may continue the guards for a period of thirty days longer, and so on, thirty days at a time, until he is satisfied that there is no further necessity therefor.

NOTE.—See further as to guards, Ky. Stat., Sec. 2044.

Sec. 6. Penalties for judge or other officer refusing to act. If the county judge, circuit judge, sheriff, or other peace officer shall refuse or fail to discharge any of the duties imposed upon him by the provisions of this act, or shall be guilty of a dereliction of duty as such officer in the premises, he shall upon conviction be fined not less than one hundred nor more than five hundred dollars, and shall forfeit his office as a penalty in addition to the payment of said fine.

Sec. 7. Fees allowed officers and guards — penalty for guard failing or refusing to act. That the officer for summoning the guards shall be paid a fee of fifty cents for summoning said guard, and each guard shall be paid two dollars, or at that rate for each day he is on duty, to be paid upon the warrant of the county judge out of the county treasury and levy of that year. If a person should serve over ten hours on any one day, for such excess of service he shall be paid extra in proportion to the time of such extra service. Any guard summoned by the officer, who fails or refuses to act, without good cause made known at the time, shall be liable to a fine of not less than five dollars nor more than fifteen dollars for each day said guard shall be in default.

Sec. 8. **Reward**—may be offered by the governor and county judge—**detectives**. For the purpose of more effectually enforcing the provisions of this act the governor is hereby authorized to offer a reward for the apprehension and conviction of any offender of this law in any sum not exceeding five hundred dollars, and he shall be authorized to employ detectives, in his discretion, for the ferreting out and apprehension and conviction of any such offender, not exceeding two at any one time, provided the cost thereof shall not exceed three thousand dollars in any one year. The judge of the county court of any county in which this law is violated shall have power to offer a reward not exceeding two hundred dollars, or supplement the governor's reward, for the arrest and conviction of any person violating this act. The rewards offered by the governor shall be paid out of the treasury of this State; those offered by the county judge shall be paid by the county.

NOTE.—See further as to reward, Sec. 1982, Ky. Statutes.

Sec. 9. Threatening letters—penalty. If any person shall send, circulate, exhibit or put up any threatening notice or letter, signed with such person's own or another's name, or anonymously, he shall upon conviction thereof be fined not less than one hundred dollars nor more than five hundred dollars, and imprisoned in the county jail not less than three nor more than twelve months.

NOTE.—As to threatening letters, see Ky. Statutes, Sec. 1222.

Sec. 10. Testimony of witnesses. In any prosecution under this act it shall be no exemption for a witness that his testimony may incriminate himself; but no such testimony given by the witness shall be used against

him in any prosecution except for perjury, and he shall be discharged from all liability for any violation of this act so necessarily disclosed in his testimony.

INTERFERING WITH PUBLIC SPEAKER.

(*Acts 1897, Chap. 2. Approved April 16, 1897.*)

Sec. 1. Interfering with public speaker—penalty. That any person or persons who shall be guilty of interfering with any person making a public speech or addressing a public audience within this State, or who shall interrupt such person while speaking, by the use of insulting or offensive language, or opprobrious epithets applied to such speaker, or who shall attempt to interrupt or injure such speaker by throwing eggs or missiles of any kind at him, shall be deemed guilty of a high misdemeanor, and punished by a fine of not less than fifty nor more than five hundred dollars or imprisonment in the county jail not less than one nor more than six months, either or both, within the discretion of the jury.

NOTE.—As to disturbing assembly, see Ky. Stat., Sec. 1267.

BADGES OF SOCIETIES.

(*Acts 1896, Chap. 10. Approved March 17, 1896.*)

Sec. 1. Badges of societies. That any person who shall willfully wear the badge of the Grand Army of the Republic, Masonic, Odd Fellows, Knights of Pythias, Knights of Honor, Confederate Veterans, or other similar secret societies, or who shall wear the same to obtain aid or assistance thereby, within this State, unless he shall be entitled to use the same, under the rules and regulations governing said organization, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by imprisonment for a term not exceeding thirty days in the county jail, or a fine not to exceed twenty dollars, or by both such fine and imprisonment.

ADULTERATED FOOD.

(*Acts 1898, Chap. 52. Received March 15, 1898.*)

Sec. 1. Adulterated food — unlawful to sell. It shall be unlawful for any person, persons or corporation within this State to manufacture for sale, or expose for sale, or have in his or their possession for sale, or to sell any article of food which is adulterated or misbranded within the meaning of this act.

NOTE.—See Secs. 1273, 1280, Ky. Statutes.

Sec. 2. Term food — what it includes. The term food, as used in this act, shall include every article used for food or drink by man, horses or cattle, except spirituous, vinous or malt liquors. The term misbranded, as used in this act, shall include every article of food, and every article which enters into the composition of food, the package or label of which shall

bear any statement purporting to name any ingredient or substance as not being contained in such article, which statement shall be untrue in any particular; or any statement purporting to name the substance or substances of which such article is made, which statement shall not give fully the names of all substances contained in such articles in any measurable quantity.

Sec. 3. Adulterated — what shall be so deemed. For the purpose of this act, an article shall be deemed adulterated: First, if any substance or substances be mixed or packed with it so as to reduce or lower, or injuriously affect its quality or strength. Second, if any inferior substance or substances be substituted wholly or in part for the article. Third, if it be an imitation; or sold under the name of another article; provided that nothing in this act shall be construed to prohibit the manufacture or sale of olemargarine, butterine or kindred compounds in a separate and distinct form, and in such manner as will advise the customer of its real character, free from coloration or ingredient that causes it to look like butter. Fourth, if it is colored, coated, polished or powdered, whereby damage is concealed, or if it is made to appear better or of greater value than it is. Fifth, if it contains poisonous ingredients which may render such article injurious to the health of the party consuming it, or if it contains any antiseptic or preservative not evident or not known to the purchaser or consumer. Sixth, if it consist in whole or in part of a diseased, filthy, decomposed or putrid substance, either animal or vegetable, unfit for food, whether manufactured or not, or if it is in any part the product of a diseased animal, or of any animal that has died otherwise than by slaughter.

NOTE.—See Sec. 1283, Ky. Statutes.

Sec. 4. Analysis to be made by State experiment station. The experiment station of the Agricultural and Mechanical College hereby designated as the Kentucky Agricultural Experiment Station shall make analysis of food products on sale in Kentucky, suspected of being adulterated, at such times and places, and at such extent as the director thereof may determine. And the director of the said Kentucky Agricultural Experiment Station may appoint such agent or agents as he deems necessary, who shall have free access at all reasonable hours, for the purpose of examining into any place wherein it is suspected any article of food adulterated with any deleterious or foreign ingredient or ingredients exists, and such agent or agents upon tendering the market price of said article may take from any person, firm or corporation samples of any article suspected of being adulterated as aforesaid, and said station may adopt or fix standards of purity, quality or strength when such standards are not specified or fixed by statute.

Sec. 5. Facts to be reported to grand jury. Whenever said station shall find by its analysis that adulterated food products have been on sale in the State, it shall forthwith transmit the facts so found to a grand juror or prosecuting attorney of the district in which said adulterated food product was found.

Sec. 6. Annual report. Said station shall make an annual report to the governor upon adulterated food products, in addition to the reports required

by law, which shall not exceed one hundred and fifty pages, and said report may be included in the report which said station is already authorized by law to make, and such annual reports shall be submitted to the General Assembly at its regular session.

Sec. 7. Penalty. Any person, who either by himself, his agent or attorney, with the intent that the same may be sold as adulterated or misbranded, adulterates or misbrands any food as defined in this act, for man or horses or cattle, or knowing that the same has been adulterated or misbranded, offers for sale or sells the same as unadulterated or truly branded, or without disclosing or informing the purchaser that the same has been adulterated or misbranded, shall be fined not more than five hundred dollars or imprisoned not more than one year.

Sec. 8. Cost of analysis. The said Kentucky Agricultural Experiment Station shall receive for taking samples within the provisions of this act and for analysis of the same only actual traveling expenses and five dollars for each sample taken and analyzed, to be paid by the Commonwealth of Kentucky upon warrant of auditor as other claims, but recovered of the owner of such article of food if declared upon inspection to be found adulterated or misbranded within the meaning of this act. The expenses of above inspection shall in no year exceed twenty-five hundred dollars.

Sec. 9. Fines — how to be applied. All fines recovered under this act shall be kept as a separate fund to pay necessary expenses in maintaining same.

Sec. 10. Civil action not to be maintained. No civil action shall be maintained in any court in this State on account of any sale or other contract made in violation of this act.

Sec. 11. Repealing clause. All acts and parts of acts inconsistent herewith are hereby repealed.

NOTE.—On subject of adulterated food, see Kentucky Statutes, Secs. 1273, 1274, 1280, 1281, and 1283.

LABELING CANNED GOODS.

(*Acts 1896, Chap. 32. Approved March 21, 1896.*)

Sec. 1. Canned goods to be labeled. That it shall hereafter be unlawful in this State for any packer or dealer in preserved or canned fruits and vegetables, or other articles of food, to offer such canned articles for sale after July one, one thousand eight hundred and ninety-six, with the exception of goods brought from foreign countries or packed prior to the passage of this act, unless such articles bear a mark to indicate the grade or quality, together with the name and address of such firm, person or corporation that pack the same or dealer who sells the same.

Sec. 2. Other goods to be labeled. That all soaked goods, or goods put up from products dried before canning, shall be plainly marked by an adhesive label, having on its face the word "soaked," in letters not less in size than two line pica of solid and legible type; and all cans, jugs or other packages containing maple syrup or molasses, shall be plainly marked by an adhesive label, having on its face the name and address of the person, firm

or corporation who made or prepared the same, together with the name and quality of the goods, in letters of the size provided in this section.

Sec. 3. Penalty. Any person, firm or corporation who shall falsely stamp or label such cans or jars containing preserved fruit or food of any kind, or knowingly permit such false stamping or labeling, and any person, firm or corporation who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and punished with a fine of not less than fifty dollars, in the case of the vendors, and in the case of manufacturers, and those falsely or fraudulently stamping or labeling such cans or jars, a fine of not less than five hundred dollars nor more than one thousand dollars, and it shall be the duty of any board of health in this State, cognizant of any violation of this act, to prosecute any persons, firm or corporation which it has reason to believe has violated any of the provisions of this act.

NOTE.—See as to false brand, Sec. 1280, Ky. Statutes.

DISTILLING UNDER FALSE NAME.

(*Acts 1896, Chap. 35. Approved March 27, 1896.*)

Sec. 1. Who included within this act. That every person (firm, joint stock company or corporation) who produces distilled spirits, or who brews or makes mash, wort or wash, fit for distillation, or for the production of spirits, or who by any process of evaporation separates alcoholic spirits from grain, molasses or fruit, or any other substance fermented, or who, making or keeping mash, wort or wash, has also in his possession or use a still, is within the meaning of this act a distiller.

Sec. 2. Under what name may operate. That it shall be unlawful for any distiller to manage and operate a distillery in this Commonwealth under any other than his actual or real name, or under such one distinguishing trade or business name or style as he shall have openly adopted for carrying on the business of his distillery; and no distillery shall be operated under more than one name or style, during any one distilling season, beginning the first day of August in each year, and ending the thirty-first day of July in the succeeding year, except in case of death, insolvency, or actual sale or *bona fide* lease of the distillery, and only then after the distillery has ceased operations for a period of at least thirty days.

Sec. 3. False representation as to products. That it shall be unlawful for any distiller in this Commonwealth to hold out or represent to the public the products actually distilled by him at his distillery as having been distilled by any other person, firm, joint stock company or corporation.

Sec. 4. Unlawful for person not engaged in distilling to permit use of name—penalty. That it shall be unlawful for any person, firm, joint stock company, or corporation not actually engaged at the time in the business of producing distilled spirits in this Commonwealth to permit his or its individual business or trade name to be used by any distiller as the operator of his distillery, and any one so offending shall be subject to an indictment in any court of competent jurisdiction, and, upon conviction,

shall be fined in any sum not less than five hundred dollars nor more than two thousand dollars for each offense, at the discretion of the jury.

Sec. 5. Penalties. That any distiller or other person who shall wilfully and knowingly violate or evade or attempt to evade any of the provisions of the foregoing act shall be guilty of a misdemeanor, and shall be subject to an indictment in any court of competent jurisdiction, and, upon conviction, shall be fined in any sum not less than two hundred dollars nor more than one thousand dollars for each offense, at the discretion of the jury. Each day that a distillery is operated contrary to the provisions of this act shall constitute a separate and distinct offense.

Sec. 6. Distillers only can issue warehouse receipts. That no person, firm or corporation shall issue or sign any warehouse receipt or substitute for such receipt on whisky stored in a distillery bonded warehouse in this Commonwealth, except the distiller, and any person other than the actual owner and operator of a distillery, who shall issue or sign any warehouse receipt or substitute therefor in violation of section two of this act, shall be guilty of a felony, and, upon indictment and conviction, be confined in the penitentiary for a period of time not less than two nor more than ten years, in the discretion of the jury.

Sec. 7. Trade marks — where placed. That any distiller may use and brand upon the commercial head of the package or cask any name or device as his trade mark selected and owned by him or the name or trade mark of any customer of said distiller. But nothing herein shall permit any such brand or name or trade mark to be put upon the stamp head of such package or cask.

SECTIONS AS AMENDED.

Sec. 1279. Branded bottles — description of to be filed — unlawful for persons other than manufacturers to refill without written permission of manufacturers. Penalty. Use or possession of without written consent presumptive evidence of unlawful use. Oath may be made as to unlawful use. Search warrant. Deposit on articles herein mentioned not deemed a sale. Description heretofore filed.

(1.) Any and all persons and corporations engaged in manufacturing, bottling, or selling soda waters, mineral or aerated waters, porter, ale, beer, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, white beer, or other beverages or medicines, medical preparations, perfumery, oils, compounds, or mixtures, in bottles, syphons, tins or kegs, with his, her, it or their name or names, or other marks or devices branded, stamped, engraved, or etched, blown, impressed, or otherwise produced on such bottles, syphons, tins or kegs, or the boxes used by him, her, it or them, may file in the office of the clerk of the county in which his, her, its or their principal place of business is situated, or if such person or persons, corporation or corporations shall manufacture a bottle out of this State, then in any county in this State, and also in the office of the Secretary of State, a description of the name or names, marks or devices so used by him, her, it or them, respectively, and cause such description to be printed once in each week, for three

weeks successively, in a newspaper published in the county in which said notice may have been filed as aforesaid.

(2.) It is hereby declared to be unlawful for any person or persons, corporation or corporations, to fill with soda waters, mineral or aerated waters, porter, ale, cider, ginger ale, milk, cream, beer, small beer, lager beer, weiss beer, white beer, or other beverages, or with medicines, or medical preparations, perfumery, oils, compounds or mixtures, any bottle, box, syphon, tin or keg so marked or distinguished as aforesaid, with or by any name, mark or device, of which a description shall have been filed and published, as provided above, or to deface, erase, obliterate, cover up or otherwise remove or conceal, any such name, mark or device thereon, or to sell, buy, give, take or otherwise dispose of or traffic in the same without the written consent of, or unless the same shall have been purchased by, such person or corporation, exclusive of the contents thereof, from the person or persons, corporation or corporations, whose mark or device shall be or shall have been in or upon the bottle, box, syphon, tin or keg so filled, trafficked in, used or handled aforesaid. Any person or persons, corporation or corporations, offending against the provisions of this section shall be deemed guilty of a misdemeanor, and shall be punished for the first offense by imprisonment not less than ten days nor more than one year, or by a fine of fifty cents for each and every such bottle, box, syphon, tin or keg so filled, sold, used, disposed of, given, taken, bought or trafficked in, or by both such fine and imprisonment, and for each subsequent offense by imprisonment not less than twenty days nor more than one year, or by fine of not less than one dollar nor more than five dollars, for each and every bottle, box, syphon, tin or keg so filled, sold, used, disposed of, given, taken, bought or trafficked in, or by both such fine and imprisonment, in the discretion of the magistrate before whom the offense shall be tried.

(3.) The use by any person other than the person or persons, corporation or corporations, whose device, name or mark shall be, or shall have been upon the same without such written consent or purchase as aforesaid, of any such marked or distinguished bottle, box, syphon, tin or keg, a description of the name, mark or device whereon shall have been filed and published, as herein provided, for the sale therein of soda waters, mineral or aerated waters, porter, ale, cider, ginger ale, milk, cream, beer, small beer, lager beer, weiss beer, white beer, or other beverages, or any article of merchandise, medicines, medical preparations, perfumery, oils, compounds, mixtures or preparations, or for the furnishing of such or similar beverages to customers or the buying, selling, using for any purpose, disposing of or trafficking in any such bottles, boxes, syphons, tins or kegs, by any person other than said persons or corporations having a name, mark, or device thereon of such owner without such written consent, or the having by any junk dealer or dealers in second hand articles, vender of bottles, rags, or collectors of or dealers in articles found in ashes, garbage or other refuse, whether at the public dumps or elsewhere, possession of any such bottles, boxes, syphons, tins or kegs, whether whole or broken, a description of the marks, names or devices, whereon shall have been so filed and published as aforesaid, without such written consent, shall, and is hereby declared to be

presumptive evidence of the said unlawful use, purchase and traffic in of such bottles, boxes, syphons, tins or kegs.

(4.) Whenever any person, persons or corporations who shall have so filed and published as aforesaid, or his, her, its or their agent shall make oath before any magistrate that he, she, or it has reason to believe, and does believe, that any of his, her, its or their bottles, boxes, syphons, tins or kegs, a description of the names, marks or devices whereon has been filed and published as aforesaid, are being unlawfully used or filled, or had, by any person or corporation manufacturing or selling soda, mineral or aerated water, porter, ale, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, white beer, or other beverages or medicine, medical preparations, perfumery, oils, compounds or mixtures, or that any junk dealer or dealer in second hand articles, venders of bottles, rags, or collectors of or dealers in articles found in ashes, garbage or other refuse, whether at the public dumps or elsewhere, or any other person or corporation has any such bottles, boxes, syphons, tins or kegs, in his, her or its possession, or secreted in any place, the said magistrate must thereupon issue a search warrant to discover and obtain the same, and may also cause to be brought before him the person in whose possession the bottles, boxes, syphons, tins or kegs may be found, and shall then inquire into the circumstances of such possession, and if such magistrate finds that such person has been guilty of a violation of section one of this act, he must impose the punishment herein prescribed, and he shall also award possession of the property taken upon such warrant to the owner thereof.

(5.) The requiring, taking or accepting of any deposit for any purpose upon any bottle, box, syphon, tin or keg shall not be deemed or constitute a sale of such property, either optional or otherwise, in any proceeding under this act.

(6.) Any person or persons, corporation or corporations, that has or have heretofore filed in the offices mentioned, as aforesaid in this act, a description of the name or names, mark or devices upon his, her, their or its property therein mentioned, and has caused the same to be published according to law existing at the time of such filing and publication, shall not be required to again file and publish such description to be entitled to the benefits of this act.

(7.) All acts or parts of acts inconsistent herewith are for the purpose of this act hereby repealed. (Acts 1898, Chap. 64. Received March 15, 1898.)

Sec. 1284. Prize fight — penalty for. If any person shall engage in a prize fight, or a fight for a bet, wager or stakes, by whatever name it may be called, he shall, upon conviction, be deemed guilty of a felony, and confined in the penitentiary for not less than one nor more than five years. (Acts 1896, Chap. 5. Approved March 14, 1896.)

Sec. 1312. Repealed. (Acts 1898, Chap. 40. Approved March 16, 1898.)

CHAPTER 39. DESCENT AND DISTRIBUTION.

CHILDREN OF SLAVE MARRIAGES.

(*Acts 1898, Chap. 39. Approved March 16, 1898.*)

Sec. 1. Children of slave marriages may inherit. That in all cases where during the time of slavery in Kentucky, any male and female colored persons lived together and cohabited with each other as husband and wife to each other, and any child or children was the result of such cohabitation, such child or children shall be held to be the lawful child or children, and legal heirs of both the father and mother in all cases where the father or mother shall die or shall have died the owner or owners of any real or personal property, and legally entitled to inherit such property of both father and mother. Provided, that in cases where such father or mother subsequently intermarried by license with some other colored person, and a child or children resulted from such marriage by license, then and in all such cases the children resulting from the slave marriages shall only be entitled to inherit such proportions of the property of their father or mother as the number of children resulting from slave marriages bears to the number of children resulting from the subsequent marriage by license; and provided, further, that this act shall not apply in any case where the property of either father or mother has passed to innocent purchasers, or heretofore divided out or sold, or distributed by the order or judgment of any court of competent jurisdiction.

NOTE.—See *Brown v. McGee*, 12 Bush, 428.

CHAPTER 41. ELECTIONS.

NEW ACTS UNDER THIS CHAPTER.

An Act to Further Regulate Electionsp. 42.

AMENDED SECTION.

Section 1459p. 49.

AN ACT TO FURTHER REGULATE ELECTIONS.

NOTE.—The Act to further regulate elections is here given in full. Some of its sections are entirely new provisions, and some are amendments and re-enactments of the present law on elections. The amending and re-enacting sections are so indicated.

(*Acts 1898, Chap. 13. Passed March 10, 1898.*)

Sec. 1. Election commissioners — how elected — chairman — vacancy. The General Assembly shall at its present session elect three commissioners, who shall be styled “The State Board of Election Commissioners.” They shall hold office for the term of four years, and until their successors are elected and qualified; they shall be citizens and electors of Kentucky,

and not less than twenty-five years old; in the year one thousand nine hundred and two, and every fourth year thereafter, the General Assembly shall elect such commissioners. Said commissioners shall qualify by taking before the clerk of the court of appeals an oath faithfully to perform their duties according to law. Of such qualifications said clerk shall make a certificate, which shall be noted upon the record of proceedings of said board, and preserved among the records. Said board shall elect one of its members chairman, who shall preside at its meetings; it shall appoint a secretary, who shall hold office during the pleasure of the board. The board shall prescribe the duties of the secretary, and fix his compensation, which shall not exceed two hundred and fifty dollars per annum. The board shall keep a record of its acts, orders, findings, judgments, and all of its proceedings. A majority of said board shall constitute a quorum for the transaction of all business of the board, and a majority of said board may make any order, finding, judgment, or do any act or thing that the board is authorized or empowered to make or do. If a vacancy occurs in said board whilst the General Assembly is in session, said vacancy shall be filled by election by the General Assembly. If a vacancy or vacancies occur in said board whilst the General Assembly is in vacation, the same shall be filled by appointment by the remaining member or members of said board. Resignations from said board shall be in writing, directed to the board, and filed among the records thereof.

Sec. 2. County board of election commissioners. Said State board of election commissioners shall annually, not later than the month of September, appoint three election commissioners for each county in this Commonwealth, who shall be styled the "county board of election commissioners;" such county election commissioners shall be citizens and electors of the county for which they are appointed, and shall be not less than twenty-five years old. Before entering upon the duties of their office, they shall qualify by taking before some officer authorized by law to administer oaths, an oath faithfully to discharge their duties as such commissioners according to law. The officer administering such oath shall make a certificate thereof, which shall be filed in the office of the county court clerk of the county. Said board shall elect one of its members chairman, who shall preside at its meetings. A majority of such board shall constitute a quorum for the transaction of all business of the board, for the doing of any act or thing that the board may do, and the making of any order, finding, or judgment of the board. Any member of such county board may be at any time removed from office by the State board of election commissioners. All vacancies in such county boards shall be filled by said State board, but until such vacancy or vacancies be filled by appointment by said State board any vacancy or vacancies in any such county board may be temporarily filled by appointment by the remaining members, or member of such county board. Said county board shall keep a record of its proceedings, which shall be a public record, and be kept in the office of the county court clerk.

Sec. 3. Election officers — appointment — qualifications — removal. Said county board shall annually, not later than the month of October,

appoint for each election precinct in the county, two judges, one clerk, and one sheriff of election, to act as such in their precinct, all of whom shall be discreet, qualified voters of the precinct for which they are appointed, and shall hold their offices until their successors are appointed and qualified; and so long as there are two distinct political parties in this Commonwealth, the judges, clerk, and sheriff of election, in all elections by the people, under the Constitution and laws of the United States, and under the Constitution and laws of this Commonwealth, shall be so selected and appointed as that one of the judges at each place of voting shall be of one political party, and the other judge of a different political party; and there shall be the like difference at each voting place between the sheriff and clerk of election. Provided, that there be a sufficient number of qualified persons of each political party resident in the precinct with which to fill said offices. No person shall be eligible as an officer of election who has not been a resident householder in the precinct for which he is appointed for not less than one year next preceding his appointment, or who has any thing of value bet or wagered on the result of such election, or who is a candidate to be voted for at such election, or who is not capable of reading the Constitution of the Commonwealth in English, and of writing a plain and legible hand. It shall be the duty of said county board of election commissioners to test all such election officers as to their qualifications before appointment. If at any time before an election it shall be made to appear to the county board of election commissioners by the affidavit of two or more qualified voters of the precinct, or other evidence, that any election officer is disqualified under the provisions of this act, then said county board shall investigate said matter and determine whether such officer is disqualified (and such a decision shall be final); and if he be found disqualified, such officer shall be removed from office and a qualified person of the same political party as the officer removed shall thereupon be appointed in his stead. Said county board of election commissioners may at any time remove from office any election officer and fill the vacancy thus occasioned. And said county board may at any time fill any vacancy in the office of election officer. The county board of election commissioners shall give due notice of said appointment of election officers to the sheriff of the county, who shall, at least ten days before the next ensuing election, give each judge, clerk, and sheriff written notice of his appointment. (This affects Sec. 1447 and Sec. 1448, Ky. Statutes.)

Sec. 4. Election officers — proceedings on failure to appoint or attend. Should the county board of election commissioners fail to appoint such officers of election, or either of said officers fail to attend for thirty minutes after the time for commencing the election, or refuse to act, the officers in attendance shall appoint a suitable person or persons to act in his or their stead for that election. If none of said officers shall appear, as herein required, the qualified voters present shall elect the officers of election *viva voce*, as nearly as possible in conformity with the provisions of this act, who shall serve as such officers. Each officer of election shall, before entering upon the duties of his office, take an oath faithfully to discharge his duties, as such officer, before some person authorized to admin-

ister an oath, or if no such officer be present, it may be administered by the clerk of the election, who in turn shall be sworn by one of the judges of election. (Re-enactment of Sec. 1450, Ky. Statutes.)

Sec. 5. County canvassing board—duties of. Said county board of election commissioners shall constitute a board for examining and canvassing the election returns of each county, and awarding and issuing certificates of election. Any two of the members of said board may constitute the board; but if either be a candidate, he shall have no voice in the decision of his own case. If from any cause, two of the members of the board can not act, in whole or in part, in examining and canvassing the returns, their places shall be supplied as in case of vacancies in such board. Within two days next after an election, the sheriff shall deposit with the clerk of the county court the returns from the different precincts. On the next day the said county board of election commissioners shall meet in the clerk's office, between ten and twelve o'clock in the morning, open and canvass the returns of such election, and give triplicate or more written certificates of election, over their signatures, of those who have received the highest number of votes for any office exclusively within the gift of the voters of the county, one copy of the certificate to be retained in the clerk's office, another delivered to each of the persons elected, and the other forwarded by the county clerk to the secretary of State at the seat of government. For offices not within such gift, they shall give duplicate or more written certificates, over their signatures, of the number of votes given in the county, city, town, district or precinct, particularizing therein the precinct at which the votes were given, one copy to be retained in the clerk's office, one delivered to the sheriff, and one, in case of municipal or district election, to the common council of said municipality or governing authority of such district. The poll-books shall thereafter remain in the clerk's office as part of its records; so, also, shall the certificates of any precinct judges which may have been used in the absence of the poll-book of that precinct. (This section is an amendment to Secs. 1507 and 1508, Ky. Statutes.)

Sec. 6. Senatorial and representative elections—duties of canvassing board in. Where two or more counties vote together in the choice of a representative or senator, the canvassing boards of election of the respective counties shall make duplicate written certificates over their signatures of the number of votes given in the counties for such representative or senator, one copy to be retained in the clerk's office of such county, and the other to be sent immediately by mail by said board to the canvassing board of the county in such district having the largest population, which last named board shall, between ten and twelve o'clock in the morning of the second Monday after the election, meet in the clerk's office of their county, compare the certificates of the canvassing boards of the several counties, and therefrom give triplicate certificates of election, in writing over their signatures, of the persons who appear to have received the largest number of votes, one copy of the certificate to be retained in the clerk's office, another delivered to the person elected, and the other forwarded to the secretary of State at the seat of government. (Identical with Sec. 1509, Ky. Statutes.)

Sec. 7. Certificate of election of county officers. The certificate of election of a county officer shall be in substance in the following form: "Commonwealth of Kentucky, act. We, A, B, and C, duly authorized to canvass the returns of the county of ———, do certify, that at an election held in said county, on the — day of ———, E. F. was duly elected to fill the office of ———." The certificate of election of a justice of the peace, or constable, shall be altered to show that the election was held in a named district. (Identical with Sec. 1510, Ky. Statutes.)

Sec. 8. Contest board — when and how formed — duties. When the election of a governor or lieutenant-governor is contested, a board for determining the contest shall be formed in the manner following: First. On the third day after the organization of the General Assembly which meets next after the election, the senate shall select, by lot, three of its members, and the house of representatives shall select, by lot, eight of its members, and the eleven so selected shall constitute a board, seven of whom shall have power to act. Second. In making the selection by lot the name of each member present shall be written on a separate piece of paper, every such piece being as nearly similar to the other as may be. Each piece shall be rolled up, so that the name thereon can not be seen, nor any particular piece be ascertained or selected by feeling. The whole so prepared shall be placed by the clerk in a box on his table, and after it has been well shaken, and the papers therein well intermixed, the clerk shall draw out one paper, which shall be opened and read aloud by the presiding officer, and so on until the required number is obtained. The persons whose names are so drawn shall be members of the board. Third. The members of the board so chosen by the two houses shall be sworn by the speaker of the house of representatives to try the contested election, and give true judgment thereon, according to the evidence, unless dissolved before rendering judgment. Fourth. The board shall, within twenty-four hours after its election, meet, appoint its chairman, and assign a day for hearing the contest, and adjourn from day to day as its business may require. Fifth. If any person so selected shall swear that he can not, without great personal inconvenience, serve on the board, or that he feels an undue bias for or against either of the parties, he may be excused by the house from which he was chosen, from serving on the board; and if it appears that a person so selected is related to either party, or is liable to any other proper objection on the score of its partiality, he shall be excused. Sixth. Any deficiency in the proper number so created shall be supplied by another draw from the box. Seventh. The board shall have power to send for persons, papers, and records, to issue attachments therefor, signed by its chairman or clerk, and issue commissions for taking proof. Eighth. Where it shall appear that the candidates receiving the highest number of votes given have received an equal number, the right to the office shall be determined by lot, under the direction of the board. Where the person returned is found not to have been legally qualified to receive the office at the time of his election, a new election shall be ordered to fill the vacancy; provided, the first two years of his term shall not have expired. Where another than the person returned shall be found to have received the high-

est number of legal votes given, such other shall be adjudged to be the person elected and entitled to the office. Ninth. No decision shall be made but by the vote of six members. The decision of the board shall not be final nor conclusive. Such decision shall be reported to the two houses of the General Assembly, for the further action of the General Assembly. And the General Assembly shall then determine such contest. Tenth. If a new election is required, it shall be immediately ordered by proclamation of the speaker of the house of representatives to take place within six weeks thereafter, and on a day not sooner than thirty days thereafter. Eleventh. When a new election is ordered or the incumbent adjudged not to be entitled, his powers shall immediately cease, and, if the office is not adjudged to another, it shall be deemed to be vacant. Twelfth. If any member of the board wilfully fails to attend its session, he shall be reported to the house to which he belongs, and thereupon such house shall, in its discretion, punish him by fine and imprisonment or both. Thirteenth. If no decision of the board is given during the then session of the General Assembly, it shall be dissolved, unless by joint resolution of the two houses it is empowered to continue longer. (Amendment of Sec. 1531, Ky. Statutes.)

Sec. 9. Certificates in certain elections. After an election for governor, lieutenant-governor, or other office elective by the votes of the whole State, or more than one county, or for a judge of the court of appeals, clerk of that court, circuit judge, Commonwealth's attorney, representatives in the congress or electors of president or vice-president, or for or upon questions or constitutional amendments submitted to a vote of the people, it shall be the duty of the board of canvassers of returns for each county, immediately after the examination of such returns, to make out two or more certificates in writing, over their signatures, of the number of votes given in the county for each of the candidates for any of said offices, and the number of votes for or against such questions or constitutional amendments. One of the certificates shall be retained in the clerk's office, another the clerk shall send by the next mail, under cover, to the secretary of State at the seat of government. (Identical with Sec. 1511, Ky. Statutes.)

Sec. 10. State canvassing board — duties of — certificates. Said State board of election commissioners, and in the absence of either, the other two, shall be a board for examining and canvassing the returns of election for any of the offices named in the last section of this act. First. It shall be the duty of said board, when the returns are all in, or on the fourth Monday after the election, whether they are in or not, to make out in the office of the secretary of State, from the returns made, duplicate certificates, in writing, over their signatures, of the election of those having the highest number of votes, one certificate to be retained in the office and the other sent by mail to the person elected. If all the returns are not made, the right to contest an election shall not be impaired. Second. In the case of the election of a representative in congress, there shall be three certificates, one to be retained in the office, another sent by mail to the clerk of the house of representatives at the seat of federal government. Third. It shall be the duty of the secretary of State, immediately after the

comparison of the returns, to cause a statement therefrom of the votes given in every county for each candidate, to be published in two newspapers. Fourth. If two or more persons shall be found to have received the highest and an equal number of votes for the same office so that the election can not be determined among the candidates by a plurality of the votes, it shall be determined by lot in such manner as the board may direct, and in the presence of not less than three other persons. Fifth. If one or more of the persons voted for as electors of president is elected, then he or they, when convened to vote for president, shall determine which of the candidates having an equal number of votes shall be deemed to be elected, without casting any lot therefor. But if none is elected, then the board shall determine the election by lot between those having the highest and equal number of votes, except that they shall be arranged and drawn for in classes according to their known pledges to vote for the different candidates, so that the whole vote of the State may be given to the same person. (Amendment of Sec. 1512, Ky. Statutes.)

Sec. 11. Tie votes. Where the canvassing board of two or more counties on comparison of the returns, or the board of canvassers for a county, find that two or more have received the highest and equal number of votes for the same office they shall, by lot, determine which of the candidates is elected. (Amendment of Sec. 1513, Ky. Statutes.)

Sec. 12. State contest board — duties of. Said State board of election commissioners, or any two of them, shall be a board for determining the contested election of any officer other than governor or lieutenant-governor, elected by the voters of the whole State, or of a judge or clerk of the court of appeals, circuit judge, or Commonwealth's attorney. First. Each member of the board, before entering on his duties as such, shall be sworn by some judge or justice to try the contested election, and give true judgment thereon, according to the evidence. Second. A majority of the board shall be necessary to a decision, which shall be in writing, and signed in duplicate by the members concurring therein, one copy to be retained in the office of the secretary of State, and the other delivered to the successful party, or sent to him by mail. Third. The board shall have power to send for persons, papers, and records, to issue attachments therefor, signed by its chairman, swear witnesses by its chairman or secretary, and issue commissions for taking proof. Fourth. Where it shall appear that the candidates receiving the highest number of votes given, have received an equal number, the right to the office shall be determined by lot, under the direction of the board; where the person returned is found not to have been legally qualified to receive the office at the time of his election, a new election shall be ordered to fill the vacancy; provided, the first two years of his term shall not have expired. Where another than the person returned shall be found to have received the highest number of legal votes cast, such other shall be adjudged to be the person elected and entitled to the office. The decision of the board shall be final and conclusive. Fifth. The governor shall immediately after such decision issue the proper commission, or order a new election, as the case may require. (Amendment of Sec. 1533, Ky. Stat.)

Sec. 13. County board of contest — duties of. The county board of election commissioners, or any two of them, shall be a board in each county, with like powers as those mentioned in the next preceding section, for determining the contested election of any officer elective by the voters of the county, or any district therein, excepting members of the General Assembly, and also of any police judge, clerk, marshal or other elective municipal officer, where there is no other provision of law for determining the contested election of such municipal officer. The board shall be governed by the rules mentioned in the next preceding section, where the same are applicable to its duties. The decision of the board shall be given in writing, and signed in triplicate, one copy to be entered on the minutes of the board, another delivered to the successful party, and the other, when necessary for obtaining a commission, sent by mail to the secretary of State. When the decision so requires, a writ for a new election shall immediately be issued. (Amendment of Sec. 1584, Ky. Statutes.)

Sec. 14. Office of State board. Said State board of election commissioners shall hold its sessions at the seat of government, at Frankfort, where a suitable room for them shall be provided in some of the State buildings. The members of the board shall be paid for all their services under this act, five dollars per day while so in session. Provided, that no member of said board shall be paid more than one hundred dollars for his services in any year. Said board shall provide itself with necessary books, papers, material and postage to enable it to perform the duties with which it is charged by this act. The chairman of said board shall certify to the auditor of public accounts the money so expended by said board, and the sums that the members of said board and its secretary are entitled to be paid under this act, and thereupon the auditor shall draw his warrant upon the treasurer for the sums so certified, to the end that the same may be paid out of the treasury.

Sec. 15. Fees of county board. The county board of election commissioners shall be paid for all services they may render under this act, two dollars per day while actually in session; but no member of such board shall be paid more than twenty dollars for his services during any year. Said board may provide itself with necessary books and stationery to enable it to perform its duties under this act; the amount of such expenditure, the number of days the members of said board were actually in session, shall be certified by the chairman of the board to the fiscal court of the county and paid out of the county funds.

Sec. 16. Repealing clause. All acts and parts of acts in conflict with this act are, to the extent of such conflict, repealed.

NOTE.—This act affects Secs. 1447, 1450, 1507, 1508, 1512, 1513, 1531, 1533, 1584, Kentucky Statutes.

SECTION AS AMENDED.

Sec. 1459. Public measure — how voted for — publication — certification. Whenever a constitutional amendment or other public measure is proposed to be voted upon by the people, the substance of such amendment or other public measure shall be clearly indicated upon the ballot, and two

spaces shall be left upon the right of the same, one for votes favoring the amendment or public measure, to be designated by the word "Yes," and one for votes opposing the amendment or measure, to be designated by the word "No." The elector shall designate his vote by a cross-mark, thus (X), placed opposite the word "Yes," or the word "No." Whenever an amendment to the constitution has been adopted by the General Assembly, the secretary of State shall cause such proposed amendment to be published at least four times, in two papers of general circulation, published in the State, and shall also cause to be published at the same time and in the same manner the fact that said constitutional amendment will be submitted to the voters for their acceptance or rejection at the next general election at which members of the General Assembly are to be voted for. Such publications shall be made so that the last publication shall be at least ninety days preceding the election at which said amendment is to be voted on, as provided in sections two hundred and fifty-six and two hundred and fifty-seven of the Constitution. It shall be the duty of the secretary of State to certify, not less than twenty days before the next general election at which members of the General Assembly are to be chosen, to the county clerk of each county, the substance of any constitutional amendment which is to be voted on, and it shall be the duty of each county clerk to have the substance of such amendment, as certified by the secretary of State, indicated on the ballot, as provided in this section. The votes cast for and against such constitutional amendment shall be counted and canvassed and certified to the State canvassing board in the same manner as the votes cast for any officer elective by the votes of the whole State. If it shall be found that a majority of the votes cast for and against said amendment are in favor thereof, then said amendment shall become a part of the Constitution. The result of such vote shall be published by the secretary of State in two daily newspapers of general circulation, published in this Commonwealth. The expenses of the publications herein provided for shall be paid as are the expenses of other publications which the secretary of State is required to make in connection with elections. (Acts 1897, Chap. 15. Approved May 12, 1897.)

CHAPTER 45. EVIDENCE.

SECTION AS AMENDED.

Sec. 1632. This section does not apply in certain counties. Section nine of chapter thirty-seven of the General Statutes of Kentucky, now known as section 1632 of the Statutes of Kentucky, shall hereafter not apply to the counties having a population of, or in excess of, seventy-five thousand inhabitants. (Acts 1897, Chap. 24. Approved May 26, 1897.)

CHAPTER 47. FEES.

SECTION REPEALED.

Sec. 1776. Repealed. (Acts 1898, Chap. 31, Sec. 2. Received March 4, 1898.)

SECTION AS AMENDED.

Sec. 1777. Clerk of court of appeals — assessor in counties having population of over 75,000 — reports to be made by — salaries allowed — penalty — how salaries fixed. The clerk of the court of appeals, and each assessor, in a county having a population of over seventy-five thousand, shall annually in the month of January, report to the auditor, under oath, the amount received by him on account of his official duties or position, from all sources during the preceding year, as well as the amount paid out by him for deputies or assistants, giving the amount paid to each and for expenses of his office; and if it shall appear from such statement that any such officer received as compensation, on account of his office, from all sources, more than four thousand dollars, after the payment of his deputies or assistants and all the expenses of his office, such officer shall with such statement, pay to the auditor the amount so received in excess of four thousand dollars; and if any officer shall fail to report as required by this section, he shall be fined not less than one, nor more than five hundred dollars, and, upon conviction, a judgment shall be entered declaring his office vacant. The annual salary of each deputy or assistant assessor shall be fixed by the judge of the county court by an order entered of record, and shall not exceed six hundred dollars per annum. Provided, that in counties containing a population of seventy-five thousand or over, the annual salary of the chief-deputy, and each deputy or assistant assessor, transfer clerk and draughtsman shall be fixed by the judge of the county court by an order entered of record, and the salary of the chief deputy shall not exceed twenty-five hundred dollars per annum, and the salaries of the other deputies or assistant assessors and draughtsman shall not exceed fifteen hundred dollars per annum, and the salary of the transfer clerk shall not exceed twelve hundred dollars per annum. Provided, further, that the total amount allowed for salaries for such assessor, chief deputy, deputy or assistant assessors, draughtsman and transfer clerk, and all other expenses of such office, shall not exceed in the aggregate the compensation now allowed by law to such assessor and his deputies and for the other expenses of his office; a copy of such, as well as a copy of any change made therein, shall be filed with the auditor by the clerk of the county court, when made. The salaries of the deputies of the clerk of the court of appeals shall be fixed by an order of the court of appeals, a copy of which order shall be filed with the auditor by the clerk of said court, when made. If it shall appear from the reports required to be made to the auditor by the clerk of the court of appeals under this section, that the amount earned and received by said clerk on account of his office is not sufficient to pay him four thousand dollars, together with the salaries of his deputies or assistants and the other legitimate expenses of his office, in any year, then said officer may retain out of money earned or received by him on account of his official duties in said office during the year or years following, enough to make up such deficit. (Acts 1898, Chap. 31. Received March 4, 1898.)

CHAPTER 50. FERTILIZERS.

(Acts 1898, Chap. 18. Received March 2, 1898.)

NOTE.—By this act this entire chapter was amended and re-enacted to read as follows:

Sec. 1. Sample and affidavit to be furnished director of experiment station each year before selling. In each year, before any person or company shall sell, offer or expose for sale in this State any commercial fertilizer, said person or company shall furnish to the director of the agricultural experiment station of the Agricultural and Mechanical College of Kentucky, which station is hereby recognized as the "Kentucky Agricultural Experiment Station," a sealed quantity of such commercial fertilizer, not less than one pound, sufficient for analysis, accompanied by an affidavit that the sample so furnished is a fair and true sample of a commercial fertilizer which the said person or company desires to sell in this State, and said affidavit shall also state the name and address of the manufacturer, the name of the fertilizer, the number of net pounds in each package, and the minimum percentages of the essential ingredients guaranteed in each fertilizer, in such form and manner as may be prescribed by said director.

Sec. 2. Label—furnished by director. The director of said experiment station, upon receipt of affidavit and sample as provided for in section one, and upon receipt of the fees hereinafter provided, shall issue to said person or company a sufficient number of labels to tag not less than twenty (20) tons of said fertilizer, on which label shall be printed the name and address of the manufacturer, the name of the fertilizer, the number of net pounds in each package, and the minimum percentage composition in terms approved by the said director as certified to in affidavit furnished by said person or company, together with a certificate from the director over his *fac simile* signature, authorizing the sale of such package according to the provisions of this act.

Sec. 3. Label—to be attached to packages—to be accepted as guarantee—penalty for fraudulent. Every bag or other package or quantity of any commercial fertilizer, in any shape or form whatever, sold or offered for sale in this State, shall have attached to it in a conspicuous place a label as provided in section two.

Sec. 4. Penalty for selling or offering for sale in violation of this act. Any manufacturer or vendor of any commercial fertilizer, or any person or company who shall sell, offer or expose for sale any fertilizer without having previously complied with the provisions of this act, shall be fined not less than one hundred nor more than five hundred dollars for each violation or evasion of this act.

Sec. 5. Labels—fee for. The director shall receive for the labels described in section two of this act fifty (50) cents for such number as may be required for one ton of fertilizer. Provided, that he may not furnish at any one time a less quantity than is sufficient for ten tons of fertilizer.

Sec. 6. Fees received by director—how expended—report. The director of said Kentucky Agricultural Experiment Station shall pay all such fees received by him into the treasury of the Kentucky Agricultural

Experiment Station, the authorities of which shall expend the same in meeting the legitimate expenses of the station, and for inspecting and making analyses of fertilizers, in experimental tests of same, and in other experimental work and purchases as shall inure to the benefit of the farmers of this Commonwealth. The director shall, within two months of the biennial meeting of the General Assembly, present to the commissioner of agriculture a report of the work done by him, together with an itemized statement of receipts and expenditures for the two years preceding under the operations of this act.

Sec. 7. Analysis — samples for — free — publication of — director to be notified of shipments. The director of said experiment station is hereby authorized, in person or by deputy, to take samples for analysis from any bag or other package or quantity of any commercial fertilizer in the possession of any dealer or transportation company in this State; to enforce the provisions of this act, and to make and enforce such rules and regulations as he may deem necessary to carry fully into effect the true intent and meaning of this act.

Sec. 8. Free analysis—how secured. Any person not a dealer in or agent for the sale of any fertilizer who may purchase any commercial fertilizer in this State for his own use, and not for sale, may take a sample of the same for analysis, which analysis shall be made by the said experiment station free of charge. Such samples for free analysis shall be taken by the purchaser in the presence of the person, company, or agent selling the fertilizer, from at least ten per cent of the sacks or other packages comprising the whole lot purchased, and shall be thoroughly mixed and at least one pound of the material after mixing must be put into a jar or can, securely sealed and marked in such a way as to surely identify the sample and show by whom it was sent, without giving the name of the fertilizer or the person from whom it was purchased, and must be forwarded to the director of the Kentucky Agricultural Experimental Station, Lexington, Kentucky. The purchaser shall also send with the sample a certificate signed by himself and witness, or by two witnesses, stating the sender has purchased the fertilizer for his own use and not for sale, and that the sample was taken in the manner prescribed in this section. Provided, however, that if the person, company, or agent shall refuse to witness the taking of the sample, then the sample may be taken at the time of the purchase in the manner already described in the presence of two witnesses, who shall certify to the manner of taking the sample. The purchaser shall preserve the official label from one of the bags or other packages sampled to be sent to the director after having received the report of analysis of the sample, and at the same time he shall furnish to the director the name and address of the firm of whom the fertilizer was purchased, and the amount purchased, and any person having sent a sample for free analysis, under the provisions of this section who shall after having received the report of analysis of the same refuse to furnish the required information, shall thereafter forfeit the privilege of free analysis of fertilizers under this section. But if any sample shall have been submitted for free analysis without all the requirements of this section having been complied with, the director

shall inquire into the case, and may accept the sample for free analysis if he believes that it is a fair sample of the fertilizer as it was delivered to the purchaser.

Sec. 9. Label as guarantee — fraudulently attaching. The label attached according to section two, to any bag or other package of commercial fertilizer sold, offered or exposed for sale in this State, shall be accepted as the guarantee of the manufacturer, dealer, or agent, that the fertilizer contains the kinds and amount of essential ingredients printed on the tag; and any person fraudulently attaching or permitting to be attached to any package of fertilizer a fraudulent or counterfeit label, a genuine label used a second time, or a label representing it to contain a larger percentage of any one or more of the essential ingredients than is actually found by analysis to be contained in the said fertilizer, may be fined as provided in section four of this act, and shall also be liable for reasonable damages sustained by the purchaser of such fertilizer. Provided, however, that a deficiency of one fourth of one per cent in any of the essential ingredients shall not be considered evidence of fraudulent intent.

Sec. 10. Analysis — bulletins of. The director of said experiment station shall annually analyze or cause to be analyzed at least one sample of every fertilizer sold or offered for sale under the provisions of this act; and he shall publish in one or more bulletins the analyses made during the year, together with the relative commercial value of each fertilizer computed from its analysis as he may determine, and the analysis guaranteed by the manufacturer.

Sec. 11. Director to be notified of shipments. To facilitate the inspection of fertilizers, the director is authorized to require all manufacturers making shipments into or within this State to notify him of the kinds, amounts, dates, destinations, and the consignee of all such shipments.

Sec. 12. Label — when to be refused. If the director of said experiment station shall believe that any fertilizer, offered for sale in this State, is of no practical manurial value, he shall refuse to furnish any label to be placed on such fertilizers.

CHAPTER 53. FISH.

SECTION AS AMENDED.

Sec. 1899. Seining and netting prohibited — penalty. That it shall be unlawful for any person or persons to catch or destroy fish in any of the running waters, lakes, or ponds, other than private ponds of this State, by means of a seine, net, other than a dip net, drag, or trap, except streams forming the boundary line between this and other States, and the lakes and ponds adjacent thereto. Any one thus offending, shall, on conviction, be fined in a sum not less than twenty-five dollars nor more than fifty dollars for each offense, and cost of prosecution. (Acts 1896, Chap. 34. Approved March 21, 1896.)

CHAPTER 54. FRAUDULENT AND PREFERENTIAL CONVEYANCE.

HOW CONVEYANCE SET ASIDE.

(Acts 1896, Chap. 7. Approved March 16, 1896.)

Sec. 1. How conveyance set aside—lien. That hereafter in this Commonwealth it shall be lawful for any party who shall be aggrieved thereby, when any real property has been fraudulently conveyed, transferred, or mortgaged, to file in a court having jurisdiction of the subject matter a petition in equity against the parties to such fraudulent transfer or conveyance or mortgage, or their representatives or heirs, alleging therein the facts showing their right of action and alleging such fraud, or the facts constituting it, and describing such property, and when done, a *lis pendens* shall be created upon the property so described, and said suit shall progress and be determined as other suits in equity, and as though it had been brought on a return of *nulla bona*, as has heretofore been required.

NOTE.—For action on return of *nulla bona*, see Civil Code, Sec. 439. See also *Martz v. Pfeiffer*, 80 Ky. 600, and *Napper v. Yager*, 79 Ky. 241.

CHAPTER 69. INN KEEPERS.

LIENS.

(Acts 1896, Chap. 12. Approved March 17, 1896.)

Sec. 1. Lien on baggage. That all hotel keepers, inn keepers, boarding-house keepers, and keepers of houses of private entertainment shall have a lien on all baggage and all personal property owned by, and brought to, such house of entertainment by the person receiving the board, nursing, care, or attention from such landlord, for the contract price of such board, care, and attention as is received, and in case of no contract price for such board, nursing, care, or attention, then for a reasonable price for same.

Sec. 2. Section 2178, Kentucky Statutes, not repealed. The first section of this act is not intended to repeal section two thousand one hundred and seventy eight of the Kentucky Statutes.

Sec. 3. Affidavit—warrant—lien continues ten days after baggage removed. When any such lien exists under section one of this act in favor of any person, he may, before a justice of the peace or a judge of the quarterly court of the county where the debt is created, by himself or agent or attorney, make affidavit to the amount due him and in arrear for board, nursing, keeping, care, and attention to the person so receiving same, and describing as near as may be, the baggage or other personal property owned by, and brought to such house of entertainment; and thereupon such officer shall issue a warrant, directed to the sheriff or any constable or town marshal of said county, authorizing him to levy upon and seize the said goods for the amount due, with interest and costs; but if the said goods have been removed from said place with the consent of such landlord, the

lien herein provided for shall not continue longer than ten days from and after such removal.

Sec. 4. Proceedings under warrant. The proceedings under a warrant shall, in all respects, be the same as in cases of distress warrant, and none of the said goods shall be exempt from seizure or sale.

Sec. 5. Penalty. Any person who shall obtain food, lodging, or other accommodation at any hotel, inn, boarding-house, or house of private entertainment with intent to defraud the keeper thereof, shall be fined in any sum not exceeding one hundred dollars, or imprisoned in the county jail not exceeding thirty days, either or both, in the discretion of the court or jury trying the case.

CHAPTER 71. INSPECTION.

NURSERIES.

(*Acts 1897, Chap. 19. Approved May 20, 1897.*)

Sec. 1. Nurseries — to be inspected — duties of entomologist. That all nurseries in Kentucky, where trees, vines, plants or other nursery stock are grown and offered for sale, shall be inspected by the entomologist and botanist of the State agricultural experiment station once each year at such time as he may elect, and he shall notify, in writing, the owners of such nurseries, the commissioner of agriculture and statistics, the director of the State agricultural experiment station, and the president of the State horticultural society of the presence of any San Jose scale or other destructively injurious insects or fungi on the trees, vines, plants or other stock of such nurseries, and shall also notify, in writing, the owner of any affected stock that he is required, on or before a certain day, to take such measures for the destruction of such insect or fungous enemies of nursery stock as have been shown to be effectual for this purpose. Said entomologist and botanist shall, for the purpose of this act, be, and he is hereby, declared to be the State entomologist, and shall serve without pay other than that he may receive as an officer of the State agricultural experiment station, but his expenses shall be paid as hereinafter provided.

Sec. 2. Insects — shipment of stock infected with — penalty. The owner of this affected nursery stock shall, within the time specified, take such steps for the destruction of San Jose scale or other destructively injurious insect or fungous enemies present as will exterminate the same, and it shall be a misdemeanor to ship or deliver any of such stock, punishable by a fine of fifty dollars for every such offense, the fine recoverable before a justice of the peace or by indictment by a grand jury of the county in which the nursery is situated, or of that to which such stock may have been shipped.

Sec. 3. Certificate to be placed on goods. Whenever a nurseryman or seller of trees, vines, plants or other nursery stock, who is a resident of this Commonwealth, shall ship or deliver any such goods, he shall send on each package so shipped or delivered a written certificate, signed by him, stating that the whole and every part of such stock has been examined by

a State or government entomologist and found free from San Jose scale or other destructively injurious insect or fungous enemies. Failure to furnish such certificate, or furnishing a false certificate, shall render him liable to the penalty of a fine of fifty dollars for each and every such shipment or delivery without such certificate.

Sec. 4. Certificate to owner. When the State entomologist examines any trees, vines, plants or other nursery stock in this State under the provisions of this act, and finds such nursery stock free from San Jose scale and other destructively injurious insect and fungous enemies, he is hereby authorized and directed to make out and deliver, in writing, to the owner of such stock a certificate stating that he has inspected such stock and found the same free from San Jose scale and other destructively injurious insect and fungous enemies, and he shall file similar certificates with the commissioner of agriculture and statistics and with the president of the State Agricultural and Mechanical College, which certificates shall at all times be subject to public inspection.

Sec. 5. Owner must notify State entomologist — examination — remedy. Whenever a nurseryman, fruit grower or agriculturist in this Commonwealth shall know or have good reason to believe that his trees, vines or plants are affected with San Jose scale, yellows, rosette or other destructive insect or fungous enemies, he shall have the privilege and it shall be his duty to notify the State entomologist, who shall proceed to the premises designated and examine the same and suggest and recommend the proper remedies for the destruction of such insect or fungous enemies as may be present.

Sec. 6. Nursery stock shipped from other States — labels — proceedings when not labeled. Every package of trees, vines, plants or other nursery stock shipped into this State from another State shall be plainly labeled on the outside with the name of the consignor, the name of the consignee, the contents, and a certificate, signed by a State or government inspector, showing that the contents have been examined by him, and that such stock is free from San Jose scale, or other destructive insect or fungous enemies. Whenever any trees, vines, plants or other nursery stock are shipped into this State without such a certificate plainly fixed on the outside of each package, the fact may be reported to any justice of the peace of this Commonwealth, and said justice shall issue a summons for the consignee of such package, and the agent of the consignor, if he be known, to appear before him on a certain day, to be therein named, to show cause why such trees, vines, plants or other nursery stock should not be seized, as being in violation of the provisions of this act, and on trial thereof, if said justice be satisfied that the provisions of this act have been violated, he shall order said agent or consignee to return such package of trees, vines, plants or other stock immediately to the shipper or consignor, unless said consignee or agent shall forthwith, and at his own expense, have such trees, vines, plants or other nursery stock examined by the State entomologist, or such person as he may appoint to make the examination, and he certifies to the justice of the peace that such nursery stock is free from San Jose scale or other destructive insect or fungous enemies. If such consignee or agent fail

to have such inspection made, or fail to return such packages to the shipper or consignor thereof, then the justice of the peace shall order and direct the constable or sheriff to burn and destroy, at the expense of the agent or consignee, all such trees, vines, plants or other stock as have been shipped into this Commonwealth in violation of law.

Sec. 7. How expenses paid. The sum of five hundred dollars annually, or so much thereof as may be necessary, is hereby appropriated for the purpose of paying the expenses of the State entomologist in the performance of his duties under the provisions of this act, and the auditor of public accounts is hereby directed to honor requisitions made by said State entomologist for expenses incurred in the performance of his duties, and the State entomologist shall make annual report to the treasurer of the amount expended.

CHAPTER 74. JURIES.

SECTION AS AMENDED.

Sec. 2246. List of jurors to be delivered to clerk by sheriff—sheriff to summon—return of sheriff. Within twenty days of the date to which said grand and petit jurors are to be summoned, the clerk shall open the envelopes containing the lists, and make out fair copies of such lists of grand and petit jurors, and deliver the same to the sheriff, who shall, at least three days prior to the next term or date to which they are to be summoned, summon the persons to attend, grand jurors on the first and petit jurors on the second day of the term, except that in cases of courts having continuous sessions said persons shall be summoned to attend on the first Monday in the month for which they were drawn. The sheriff or other officer summoning such persons shall do so by giving to each one found, personal notice, and to each one not found by leaving a written notice at the juror's place of residence with some member of his family over sixteen years of age. The list shall be returned by the sheriff on the first day of the term; or, in cases of courts having continuous sessions, on the day to which the jurors are summoned, with a certificate thereon of the date and manner in which each juror was summoned, from which lists, respectively, the regular panels of the grand and petit juries shall be selected in order in which their names appear thereon. (Acts 1898, Chap. 17. Approved March 14, 1898.)

CHAPTER 76. LANDS.

MEMORANDUM OF ACTION INVOLVING TITLE TO REAL ESTATE.

(Acts 1896, Chap. 11. Approved March 17, 1896.)

Sec. 1. Action involving title to real estate—title of subsequent purchaser not affected until memorandum is filed. That no action, cross action, counterclaim, or other proceeding whatever (save actions for forcible detainer or forcible entry or detainer) hereafter commenced or

filed in which the title to, or the possession or use of, or any lien, tax, assessment, or charge on real estate, or any interest therein, is in any manner affected or involved, nor any order or judgment therein, nor any sale or other proceeding thereunder, shall in any manner affect the right, title or interest of any subsequent purchaser, lessee or incumbrancer of such real estate or interest for value and without notice thereof, except from the time when there shall be filed in the office of the clerk of the county court of the county in which such real estate, or greater part thereof, lies, a memorandum stating, (one) the number of said action where the action is numbered and style of such action or proceeding and the court in which it is commenced, or is pending; (two) the name of the person whose right, title, interest in, or claim to, real estate is involved or affected; (three) a description of the real estate in said county thereby affected. Such notice may be filed by any party in interest. No notice shall extend to the interest of any person not designated therein, nor to any real estate or interest except that described therein; and when any amendment is made in such action or proceeding changing the description of the real estate, or interest involved or affected, or extending the claim against the same, the party filing such notice shall file a new notice. Where the real estate so affected consists of tracts lying in different counties, a separate notice shall be filed in each county as to the tract lying in that county.

Sec. 2. Memorandum — attachment or execution not to affect title of subsequent purchaser until memorandum is filed. No attachment or execution hereafter issued, nor any levy or sale under either shall in any manner affect the right, title to, or interest of a subsequent purchaser, lessee, or incumbrancer without notice thereof of any real estate or any interest therein upon which such attachment or execution may be, or may have been, levied, except from the time there shall be filed in the office aforesaid a memorandum, showing the number and style of the action in which said attachment or execution issued, the court from which it issued, the number, if any, of such attachment or execution, the date thereof, and the name of the persons in whose favor and against whom respectively it issued. Such notice may be filed by any party in interest.

Sec. 3. Notices — duty of clerk in regard to — fees. The clerk shall number such notices in the order in which they are received, shall endorse on each notice the day and hour of the receipt and the name of the person filing it, and shall record the same in a book to be kept for that purpose. He shall forthwith index the notices mentioned in section one by their numbers and by the name of each person whose interest is therein stated to be affected, and the notices mentioned in section two by their numbers and by the names of each person against whom the attachment or execution is stated to have issued. For recording each notice mentioned in section two, there shall be charged thirty cents, and for the notices mentioned in section one, fifty cents for each tract of land therein separately described, which fees shall be paid in advance, and shall be taxed as part of the costs of the party filing the same in the action, attachment, or execution.

Sec. 4. Notice — how discharged. Any notice mentioned herein may be discharged and annulled by an entry to that effect on the margin of the

record thereof signed by the person filing the same or by his or their attorney of record in the action, or by a writing executed, acknowledged, and recorded in the manner provided for conveyance of land. The clerk shall enter a memorandum of such discharge on the margin of such record, for which there shall be charged a fee of twenty-five cents, to be paid in advance.

NOTE.—See Kentucky Statutes, Sec. 1660, and Civil Code, Secs. 212 and 442.

CHAPTER 79. LIENS.

AMENDED SECTIONS.

Section 2463	p. 60.
Section 2467 (Repealed and re-enacted).....	p. 61.
Section 2468	p. 61.
Section 2488	p. 61.
Section 2492	p. 61.

SECTIONS AS AMENDED.

2 R 88
High tower
V. J. R.
Bailey & K.
24 R 305
Brown & Co.
V. R.
Rich & Co.
24 R 1216
" 1,1647
" " 2387

Sec. 2463. Contractor furnishing labor or material by contract or written consent of owner, authorized agent, etc., shall have lien superior to subsequent mortgage, etc. — lien not to take precedence of contract, mortgage, conveyance, etc., for value without notice, duly recorded, unless statement filed. A person who performs labor or furnishes materials in the erection, altering or repairing a house, building or other structure, or for any fixture or machinery therein, or for the excavation of cellars, cisterns, vaults, wells or for the improvement, in any manner, of real estate by contract with, or by the written consent of, the owner, contractor, sub-contractor, architect or authorized agent, shall have a lien thereon, and upon the land upon which said improvements shall have been made or on any interest such owner has in the same, to secure the amount thereof with costs; and said lien on the land or improvements shall be superior to any mortgage or incumbrance created subsequent to the beginning of the labor or the furnishing of the materials; and said lien, if asserted as hereinafter provided, shall relate back and take effect from the time of the commencement of the labor or the furnishing of the materials. Provided, that such lien shall not take precedence of a mortgage or other contract, lien or *bona fide* conveyance for value without notice, duly recorded or lodged for record according to law, unless the person claiming such prior lien shall, before the recording of such mortgage or other contract lien or conveyance, have filed in the clerk's office of the county court of the county wherein he shall have performed labor or furnished material, or shall expect to perform labor or furnish materials, as aforesaid, a statement showing that he has performed or furnished, or that he expects to perform or furnish, such labor or materials, and the amount in full thereof, and his lien shall not, as against the holder of said mortgage

28 R 402
Turner & Co.

or other contract lien or conveyance, exceed the amount of the lien claimed, or expected to be claimed, as set forth in such statement. The statement aforesaid shall, in other respects, be in the form of the tenor prescribed by section six of the act to which this is an amendment. The liens provided for herein shall in no case be for a greater amount in the aggregate than the contract price of the original contractor; and should the aggregate amount of liens exceed the price agreed upon between the original contractor and the owner, then there shall be a pro rata distribution of the original contract price among said lien holders. (Acts 1896, Chap. 29. Approved March 21, 1896.)

Sec. 2467. When mortgage is taken to secure loan for erecting building it should so state — penalty for wilful misappropriation of proceeds of same. That whenever a mortgage is taken to secure a loan which is made for the purpose of erecting a building or improving or adding to any building, then said mortgage shall so state. And if any person shall receive the proceeds of such a mortgage and shall wilfully misappropriate or misapply the same, he shall, upon indictment and conviction therefor, be confined in the penitentiary for a period of not less than one year and not more than five years. (Acts 1896, Chap. 29. Approved March 21, 1896.)

Sec. 2468. Statement must be filed in six months or lien lost. The liens mentioned in the preceding sections shall be dissolved unless the claimant, within *six months* after he ceases to labor or furnish materials as aforesaid, files in the office of the clerk of the county court of the county in which such building or improvement is situated, a statement of the amount due him, with all just credits and sets-off known to him, together with a description of the property intended to be covered by the lien, sufficiently accurate to identify it, and the name of the owner, if known, and whether the materials were furnished or the labor performed by contract with the owner, or with a contractor or sub-contractor, which shall be subscribed and sworn to by the person claiming the lien, or by some one in his behalf. (Acts 1896, Chap. 29. Approved March 21, 1896.)

Sec. 2488. Lien superior to other encumbrance — who deemed employees. The said lien shall be superior to the lien of any mortgage or other encumbrance thereafter created, and shall be for the whole amount due such employees, as such, or due for such materials or supplies; that for wages coming due to employees within six months before the property or effects shall in any wise come to be distributed among creditors, as provided in section twenty-five of this act, the lien of such employees shall be superior to the lien of any mortgage or other encumbrance theretofore or thereafter created; but no president or other chief officer, nor any director or stockholder of any such company shall be deemed an employee within the meaning of this article. (Acts 1896, Chap. 29. Approved March 21, 1896.)

Sec. 2492. Canal, railroad, turnpike, and improvement companies — liens of laborers. All persons who perform or furnish labor, material, supplies or teams, for the construction or improvement of any canal, rail-

road, turnpike or other public improvement in this Commonwealth, by contract, expressed or implied, with the owner or owners thereof, or by sub-contract thereunder, shall have a lien thereon, and upon all of the property and franchise of the owner or owners thereof, for the full contract price of such labor, material, supplies, and teams so furnished or performed, which said lien shall be prior and superior to all other liens thereafter created thereon; but any person undertaking or expecting to perform or furnish labor, material, supplies or teams, in the manner provided in this section, may acquire a lien therefor as herein provided, by filing in the clerk's office of each county, wherein he shall have so undertaken to perform or furnish labor, material, supplies or teams, a statement in writing, stating that he has so undertaken and expects to perform or furnish labor, material, supplies or teams, and the price at which the same is to be furnished, and the lien for labor performed, material, supplies or teams furnished thereafter shall relate back and take effect from the date of the filing of such statement. Provided, that as to all original construction such lien shall be prior to all liens theretofore or thereafter created on the part so constructed, and on no other part. (Acts 1896, Chap. 29. Approved March 21, 1896.)

CHAPTER 81. LIQUORS—INTOXICATING.

SALE OF INTOXICATING BEVERAGES.

(Acts 1898, Chap. 30. Approved March 15, 1898.)

Sec. 1. Intoxicating beverage — unlawful to sell. It shall be unlawful for any one to sell, barter, or loan, directly or indirectly, any beverage, liquid mixture or decoction of any kind which produces or causes intoxication, in any county, city, town, district or precinct, in which the sale, barter or loan of spirituous, vinous, and malt liquors is or shall be prohibited in accordance with the local option law.

Sec. 2. Penalty. Any person who shall sell, barter or loan, directly or indirectly, any such beverage, liquid mixture or decoction in any said county, city, town, district or precinct shall, upon conviction, be fined the sum of not less than twenty nor more than one hundred dollars for each offense; and any sale, barter or loan of any article, with the agreement, expressed or implied, that the right or title to or possession of any such beverage, liquid mixture or decoction shall also pass, shall be considered a sale, barter or loan within the terms of this act.

NOTE.—See Sec. 2557, Ky. Statutes.

NOTE.—This Act was construed by the Court of Appeals, October 11, 1898, in *Rush v. Com.*, 47 S. W. 586.

CHAPTER 85. MEDICINE AND SURGERY.

AMENDED SECTION.

Section 2618p. 63.

NEW ACT UNDER THIS CHAPTER.

An Act to Regulate the Practice of Pharmacyp. 63.

SECTION AS AMENDED.

Sec. 2618. Penalty of violation of this law — meaning of practicing medicine. Any person living in this State, or any person coming into this State, who shall practice medicine or attempt to practice medicine in any of its branches, or who shall treat or attempt to treat any sick or afflicted person by any system or method whatsoever, for reward or compensation, without first complying with the provisions of this law, shall, upon conviction thereof, be fined fifty dollars, and upon each and every subsequent conviction shall be fined one hundred dollars and imprisoned thirty days, or either or both, in the discretion of the court or jury trying the case; and in no case where any provision of this law has been violated shall the person so violating be entitled to receive any compensation for the services rendered. To open an office for such purpose, or to announce to the public in any way a readiness to treat the sick or afflicted shall be deemed to engage in the practice of medicine within the meaning of this act. (Acts 1898, Chap. 47. Approved March 18, 1898.)

PHARMACY.

(NOTE.—This Act repeals all former Acts regulating the practice of pharmacy and the sale of poisons.)

(Acts 1898, Chap. 65. Received March 15, 1898.)

Sec. 1. Registered pharmacist only may compound and vend drugs — penalty. That, except as in this act provided, it shall hereafter be unlawful in the Commonwealth of Kentucky for any person who is not a registered pharmacist, within the meaning of this act, to vend at retail, compound or dispense any drug, medicine, chemical, poison, or pharmaceutical preparation for medical use, or compound and dispense physicians' prescriptions. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be liable to a fine of not less than twenty nor more than fifty dollars for each and every offense.

Sec. 2. Compounding by other than registered pharmacist — penalty for. Any owner of a pharmacy, or retail drug store, who, not being a registered pharmacist, shall fail or neglect to place in charge of such pharmacy or drug store a registered pharmacist, or any such proprietor who shall by himself, or any other person, permit the compounding or dispensing of prescriptions, or the vending at retail of drugs, medicine, poisons, or

pharmaceutical preparations in his store or place of business, except by or in the presence and under the immediate supervision of a registered pharmacist, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be liable to a fine of not less than twenty-five nor more than one hundred dollars, and each week that he shall cause or permit such pharmacy or retail drug store to be so conducted or managed shall constitute a separate and distinct offense, and render him liable to separate prosecution and punishment therefor.

Sec. 3. Kentucky board of pharmacy. The members of the present State board of pharmacy shall serve until the expiration of the time for which they have been appointed, and they, with their successors, shall constitute the "Kentucky Board of Pharmacy." At its regular annual meeting in each and every year after the enactment of this law, the Kentucky pharmaceutical association shall select and submit to the governor the names of five persons, who have had five years' experience in compounding and dispensing physicians' prescriptions in the Commonwealth of Kentucky, and the governor shall, before the first day of October of each year, appoint from the names so submitted one person, as the term of each of those now holding office expires, who shall hold his office for five years, and until his successor is appointed and qualified, unless removed for cause. Any vacancy that may occur in said board shall be filled for the unexpired term by the governor from the names last submitted. Each member of said board shall, within ten days after he receives his appointment, take and subscribe to an oath or affirmation, before a competent officer, to faithfully and impartially perform the duties of his office, which oath or affirmation shall be inscribed upon his commission. Not more than two members of said board shall be residents of the same county. No member of said board shall be reappointed within one year of the expiration of his term of office.

Sec. 4. Annual meetings—examination—prosecution—registration books—quarterly meetings—records. The said board shall meet in the month of October of each year, and organize by the election of a president, secretary, and treasurer from its own members, who shall be elected for the term of one year, and shall perform the duties prescribed by the board. It shall be the duty of said board to examine all applicants for registration submitted in proper form; to grant certificates of registration to such persons as may be entitled to the same under the provisions of this act; to investigate complaints, and to cause the prosecution of all persons violating the provisions of this act; to report annually to the governor and to the Kentucky pharmaceutical association upon the condition of pharmacy in the Commonwealth, which report shall also furnish a record of the proceedings of said board for the year, and also the names of all pharmacists duly registered under this act during that fiscal year, and shall include an itemized account of all money received and expended by said board. The said board shall keep a book of registration open at some convenient place in Louisville, Kentucky, of which due notice shall be given in three or more newspapers of general circulation in the State, in which shall be entered the name and place of business of all persons registered under this act, which book shall

also specify such facts as said persons shall claim to justify their registration. The said board shall hold meetings for the examination of applicants for registration, and the transaction of such other business as shall pertain to its duties, at least once in three months, said meetings to be held on the second Tuesday of January, April, July, and October of each year, in such cities as the said board may select, and shall give thirty days' notice of the time and place of such meetings. It shall also keep a book of record of all its transactions. The records of said board, or a copy of any part thereof, certified by the secretary to be a true copy, attested by the seal of the board, shall be accepted as competent evidence in all courts of this Commonwealth. The said board shall have power to make by-laws for the proper execution of its duties under this act. Three members of said board shall constitute a quorum.

Sec. 5. Salary of secretary — of members — secretary to collect money — bond of treasurer. The secretary of the board shall receive such salary as the board may determine, which shall not exceed five hundred dollars a year. He shall also receive his traveling and other necessary expenses incurred in the performance of his official duties. The other members of the said board shall receive the sum of five dollars for each day actually engaged in the service thereof, and all legitimate and necessary expense incurred in attending the meetings of said board; or while performing strictly official duties; said salaries, per diem, and expenses shall be paid, after an itemized statement of the same has been rendered and approved by the board, from the fees and penalties received by said board under the provisions of this act. The secretary shall collect all money due the board from all sources, and shall pay the same to the treasurer within thirty days, taking his receipt therefor. The treasurer shall give bond in such sum as the board may determine, which at no time shall be for a less amount than is in his hands belonging to said board.

Sec. 6. Certificates — who entitled to. Every person who shall, on or before the first day of July, one thousand eight hundred and ninety-eight, furnish the Kentucky Board of Pharmacy satisfactory proof, supported by his affidavit, that he was engaged in the business of dispensing pharmacist on his own account, in a town or place of less than one thousand inhabitants, in the Commonwealth of Kentucky, at the time of the passage of this act, in the preparation of physicians' prescriptions, and every person who heretofore has had as much as five years' experience in the preparation of physicians' prescriptions, and shall furnish the Kentucky Board of Pharmacy satisfactory proof of such facts, accompanied by his affidavit showing said fact, shall, upon the payment to the board of a fee of two dollars, be granted the certificate of a registered pharmacist, without examination. Provided, that in case of a failure or neglect to register as herein provided, then such person shall, in order to be registered, comply with the requirements provided for registration as a registered pharmacist herein described.

Sec. 7. Certificate — examination for. Any person not entitled to registration, as provided in section six, and who may desire a certificate as registered pharmacist, shall apply to the Kentucky Board of Pharmacy,

and shall pay the secretary of the board the sum of five dollars. If the board shall find that he has had a practical experience of three years in compounding physicians' prescriptions and in the general duties of pharmacy, is a person of good moral character and temperate habits, and, if after a satisfactory examination they find that he is duly qualified, they shall register him, and issue him a certificate as registered pharmacist. Every certificate hereafter issued under this act shall have plainly written, printed or stamped upon the face thereof the words, "Revocable for causes specified by law," and all certificates awarded upon examination shall state such facts upon the face thereof.

Sec. 8. Registration—renewal of certificate. Persons who, at the time of the enactment of this law, hold certificates of registration as pharmacists, granted by the State board of pharmacy of Kentucky, shall not be required to register under this law, but shall apply for and secure annual renewals thereof, as provided in this act, and in all other respects shall be amenable to the provisions of this act.

Sec. 9. Renewal fees—certificate to be exposed—change of business place—notification—failure to renew registration—list published—bar to renewal. Each registered pharmacist shall annually, during the month of January, if he desires to continue in such business, pay to the said board a renewal fee, to be fixed by the board, but which shall not exceed one dollar, for which he shall receive a renewal of said registration. Every person receiving a certificate under this act shall keep the same conspicuously exposed in his place of business. Every registered pharmacist shall, within ten days after changing his place of business, as designated by his certificate, notify the secretary of the board of his new place of business, and inclose a fee of fifty cents, upon receipt of which the secretary shall make the necessary change in his register. Any registered pharmacist who shall fail or neglect to procure his annual renewal of registration, or to comply with the other provisions of this section, shall forfeit his right to act as such pharmacist at the expiration of sixty days from the time notice of such failure to comply with the provisions of this section shall have been mailed to his last address by the secretary of the board. The secretary of the board shall annually publish a list of all persons who are duly registered as pharmacists in this Commonwealth, and shall mail a copy of same to each registered pharmacist. It shall be the duty of the secretary of the board to erase from the register the name of any registered pharmacist who may have died, removed from, or has forfeited his right under the law to do business in this Commonwealth. Any registered pharmacist who shall sever his connection with the drug business for a period of five successive years shall not be entitled to renew his registration, except upon passing a satisfactory examination before the board of pharmacy, as provided in this act.

Sec. 10. False representations—penalty. Any person who shall procure, or attempt to procure, registration for himself or for another, under this act, by making or causing to be made any false representations, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be liable to a penalty of not less than twenty-five nor more than one hundred

dollars, and the name of the person so fraudulently registered shall be stricken from the register. Any person not a registered pharmacist, as provided in this act, who shall take, use or exhibit the title of registered pharmacist, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be liable to a penalty of not less than fifty nor more than two hundred dollars. Any registered pharmacist who shall be in the habit of being intoxicated shall be deemed guilty of a misdemeanor, and upon conviction thereof, be liable to a penalty of not less than twenty-five nor more than fifty dollars for the first offense; and upon conviction for the second offense, in addition to such fine, his name shall be stricken from the register, and his certificate of registration revoked by the board.

Sec. 11. Adulteration of drugs—penalty therefor. No person shall add to, or remove from, or cause to be added to or removed from, any drug, chemical, or medicinal preparation, any ingredient or material, for the purpose of adulteration or substitution, which shall deteriorate the quality, commercial value, or medical effect, or which shall alter the nature or composition of such article, so that all will not correspond to the recognized tests of identity or purity. Any person who shall thus willingly adulterate, or alter, or cause to be adulterated or altered, or shall sell, or offer for sale, any such drug, chemical, or medicinal preparation, or any person who shall substitute or cause to be substituted, one material for another, with the intention to defraud or deceive the purchaser, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than one hundred nor more than five hundred dollars; and, if a registered pharmacist, his name shall be stricken from the register, and his certificate of registration revoked. On complaint being made, the board of pharmacy is hereby empowered to employ an expert chemist or analyst to examine into the so-called adulteration, and report upon the result of his investigation, and if said report shall be deemed to justify such action, the board shall cause the prosecution of the offender, and if found guilty, he shall be adjudged to pay, in addition to fine before provided for, all costs of inspecting and analyzing such adulterated article.

Sec. 12. Poisons — to be labeled — register of sales. No person shall sell at retail any poisons, except as herein provided, without affixing to the bottle, box, vessel, or package containing same, a label printed or plainly written, containing the name of the article, the word "poison," and the name and place of business of the seller, with the common name of two or more readily accessible antidotes, nor shall he deliver poison to any person without satisfying himself that such poison is to be used for legitimate purposes. A poison in the meaning of this act, shall be any drug, chemical or preparation, which, according to standard works on medicine or materia medica, is liable to be destructive to adult human life in quantities of sixty grains or less. It shall be the further duty of any one selling or dispensing poisons, which are known to be destructive to adult human life in quantities of five grains or less, before delivering them, to enter in a book kept for that purpose the name of the seller, the name and residence of the buyer, the name of the article, the quantity sold or disposed of, and the purposes for which it is said to be intended, which book of registry shall be

kept for at least two years, and shall at all times be open to the inspection of the coroner of the county in which the same may be kept. Oil of tansy, oil of savin, ergot, and its preparations, cotton root, and its preparations, and all other active emmenagogues or abortives, shall be sold at retail or dispensed only upon the written prescription of a legally qualified physician. The provisions of this section shall not apply to the dispensing of poisons in not unusual quantities, or doses, on physicians' prescriptions, nor to the sale to agriculturists, or horticulturists, of such articles as are commonly used by them as insecticides. Every person failing to comply with the requirements of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not less than ten dollars.

Sec. 13. Persons not registered pharmacists may conduct drug stores — when. Any person, or persons, not a registered pharmacist, may open, own, or conduct a drug store or pharmacy, if he or they keep constantly in charge of the same a registered pharmacist; but shall not himself or themselves sell or dispense drugs or medicines, except proprietary or patent medicines in original packages.

Sec. 14. Act does not apply — when. Nothing in this act shall be construed so as to apply to, or in any manner interfere with, the sale of the usual non-poisonous domestic remedies and medicines, and patent or proprietary medicine, by country stores in small places or rural districts. Nothing in this act shall apply to, or in any manner interfere with, the business of any licensed practicing physician, or prevent him from supplying to his patients such articles as may seem to him proper, or with his compounding his own prescriptions.

Sec. 15. Exemption from jury service. All pharmacists registered under this act, while engaged in any store for retailing drugs, medicines, or poisons, shall be exempt from serving on a jury.

Sec. 16. Duty of circuit judge. All circuit judges are required to give this act in charge to each grand jury empanelled in their courts.

Sec. 17. Prosecutions — penalties. All prosecutions under this act shall be in the name of the Commonwealth of Kentucky, in any court having jurisdiction. It shall be the duty of the Kentucky Board of Pharmacy to investigate all complaints of disregard, non-compliance with, or violations of the provisions of this act, and to bring all such cases to the notice of the county attorney of the county where such person is doing business, and it shall be the duty of such county attorney to diligently prosecute to effect any such violations. All penalties collected under the provisions of this act, after payment of all costs, including the commission allowed by law to the various officers, shall inure one half to the Kentucky Board of Pharmacy, and one half to the school fund of the school district in which the offense was committed.

Sec. 18. Repealing clause. All acts or portions of acts regulating the practice of pharmacy, and the sale of poisons, within the Commonwealth, enacted prior to the passage of this act, are hereby repealed.

NOTE.—This Act repeals Art. II, Chap. 85, Kentucky Statutes, being Secs. 2619 to 2635. Is not Sec. 2615, Chap. 85, Kentucky Statutes, void for reasons given in L. & N. R. R. Co. v. Com., 18 Ky. Law Reporter, 142 ?

CHAPTER 88. MINES AND MINING.

NEW ACTS UNDER THIS CHAPTER.

As to Wages of Employees in Mines	p. 69.
Course of Mining Engineering to be Established in State College	p. 69.

AS TO WAGES OF EMPLOYEES IN MINES.

(Acts 1898, Chap. 15. Received March 2, 1898.)

Sec. 1. **Wages of employees in mines — how and when paid.** That all persons, associations, companies, and corporations employing the service of ten or more persons in any mining work or mining industry in this Commonwealth, shall on or before the sixteenth day of each month pay for the month previous such servant or employees on his or their order in lawful money of the United States the full amount of wages due such servant or employees rendering such services. But if such person, corporation or company, after using due diligence, is unable to make said payment as above required, he or it shall within fifteen days thereafter make out a payroll and statement of amount due each employe, and also a due bill for said sum, bearing interest from said sixteenth day of the month, and deliver same to each of said employees.

Sec. 2. **Unlawful to require employe to purchase at particular place — blacklisting.** It shall be unlawful for any person or persons, association, company, or corporation employing others, as described in section one, either directly or indirectly, to coerce or require any such servant or employe to deal with or purchase any article of food, clothing or merchandise of any kind whatever, from any person, association, corporation or company, or at any place or store whatever. And it shall be unlawful for any of such employers as described in the first section to exclude from work, or to punish or blacklist any of said employees for failure to deal with any other or to purchase any article of food, clothing or merchandise whatever from any other or at any place or store whatever.

Sec. 3. **Penalty.** Any person or persons, company or corporation, described in the first section, that shall violate any of the provisions of this act, shall be guilty of a misdemeanor, and on conviction shall be fined not less than fifty dollars nor more than one hundred dollars for each offense, and the doing or failure to do any act or thing required by this act shall constitute a separate offense.

NOTE.—See further Secs. 1330 and 1386, Kentucky Statutes, on subject of wages.

COURSE OF MINING ENGINEERING TO BE ESTABLISHED IN STATE COLLEGE.

(Acts 1898, Chap. 55. Received March 15, 1898.)

Sec. 1. **Geological collections — removal of.** That the geological collections, including maps, charts, apparatus, and all the accumulated material of the geological survey, be, and they are hereby directed to be, removed

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1902
Chas 60
Pg- 125-
Repeating
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to the building of the State college, to be placed in rooms suitable for that purpose, there to remain, subject, however, to be recalled at any time that may seem proper by the General Assembly.

Sec. 2. Office of inspector of mines. That the present inspector of mines shall keep an office at the State college, and that the salary of himself and each assistant, including his salary as curator of the geological survey as provided by law, shall continue during the term of service for which he and they were appointed.

Sec. 3. State college to establish course of mining engineering — dean — inspector — assistants — analysis — oath — compensation. That the board of trustees of the State college be, and they are hereby, authorized to establish a course of study in said college to be known and designated as the "Course of Mining Engineering," in which shall be taught all the branches of science relating thereto, and said board of trustees shall, after the expiration of the terms of service of the present inspector and assistants, respectively, select as other professors are selected, a suitable and competent person for dean of the same, with the necessary staff of assistants; and said dean shall by reason of said selection be the inspector of mines, with all the powers and privileges now conferred upon the said inspector by law. It shall also be his duty to determine, by chemical analysis or otherwise, the kind and quantity of the mineral products of the State of Kentucky as may be sent to him for inspection or analysis, and give written opinions thereon, but these latter duties shall not be allowed to interfere with his duties as inspector, relative to the safe condition of the coal mines of the State. He shall take the required oath and give the same bond as now required by said officer. He and his assistants shall hold office on identically the same conditions with other professors in said college, and shall be subject to removal as they are. Said dean and his assistants, however, inasmuch as their duties consist primarily and principally of work peculiarly public and practical in its relation to the mines and mineral products of the Commonwealth, shall be regarded as public servants in a sense in which the ordinary professors of the college can not be regarded, and shall therefore receive compensation directly from the State, and not from the funds of the college; and their compensation as now fixed by law shall be certified to the auditor as heretofore, and paid out of the treasury as now paid.

Sec. 4. Expense of removal — how paid. That the inspector of mines be, and he is hereby, directed to remove within a reasonable time the geological collection of this State, including maps, apparatus, etc., to the State college at Lexington, and he is hereby authorized and directed to certify the expenses of transference to the auditor of public accounts, who shall draw his warrant upon the treasury for the same.

Sec. 5. Repealing clause. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

CHAPTER 89. MUNICIPAL CORPORATIONS.

AMENDED SECTIONS.

Section 2740.....p. 71.	Section 3005.....p. 75.
Section 2752.....p. 71.	Section 3017.....p. 76.
Section 2833.....p. 72.	Section 3117.....p. 77.
Section 2912.....p. 72.	Section 3136.....p. 77.
Section 2946.....p. 73.	Section 3143.....p. 78.
Section 2974.....p. 73.	Section 3210.....p. 78.
Section 2981.....p. 74.	Section 3219.....p. 79.
Section 2982.....p. 75.	Section 3483.....p. 80.
Section 2993.....p. 75.	Section 3652.....p. 81.

SECTIONS HELD VOID IN PART.

Section 2882.....p. 81.	Section 3662.....p. 81.
Section 3661.....p. 81.	

NEW ACTS UNDER THIS CHAPTER.

To Authorize Cities of Second Class to Acquire Turnpike Roads.....p. 82.
To Provide for Public Library in Cities of First Class.....p. 82.
To Authorize Appointment of Police Matron in Cities of First Class.....p. 83.
Concerning Taxation of Franchises by Cities of First and Second Class. (See Revenue and Taxation, Chap. 108 of this Supplement.)p. 93.

SECTIONS AS AMENDED.

Sec. 2740. This section has been amended as follows:

- Murray**, Calloway county, assigned to fifth class. Acts 1896, Chap. 25.
Marion, Crittenden county, assigned to fifth class. Acts 1897, Chap. 27.
Wickliffe, Ballard county, assigned to fifth class. Acts 1898, Chap. 20.
Madisonville, Hopkins county, assigned to fourth class. Acts 1898,
 Chap. 28.
Princeton, Caldwell county, assigned to fourth class. Acts 1898,
 Chap. 28.
Providence, Webster county, assigned to fifth class. Acts 1898,
 Chap. 28.
Sebree City, Webster county, assigned to fifth class. Acts 1898,
 Chap. 28.
Pineville, Bell county, assigned to fifth class from fourth class. Acts
 1897, Chap. 18.

Sec. 2752. Actions against city—limitation. Actions against the city for damages for injuries to person or property shall be begun within six months after the cause of action accrued. Actions against the city for

taxes or assessments claimed to have been illegally paid or collected shall be commenced within six months after the cause of action accrued. (Acts 1898, Chap. 43. Approved March 16, 1898.)

Sec. 2833. Original construction — cost — square defined — territory not defined — digging and walling of public wells, placing water plugs — cost — lien. When the improvement is the original construction of any street, road, lane, alley, or avenue, such improvement shall be made at the exclusive cost of the owners of lots in each fourth of a square, to be equally apportioned by the board of public works according to the number of feet owned by them respectively, and in such improvements the cost of the curbing shall constitute a part of the cost of the construction of the street or avenue, and not of the sidewalk. Each subdivision of the territory bounded on all sides by principal streets shall be deemed a square. When the territory contiguous to any public way is not defined into squares by principal streets, the ordinance providing for the improvement of such public ways shall state the depth on both sides fronting said improvement to be assessed for the cost of making the same according to the number of square feet owned by the parties respectively within the depth, as set out in the ordinance. The general council shall have power by ordinance, recommended by the board of public works, to cause the digging and the walling of public wells and cisterns, and the placing of water plugs and fire hydrants and attachments to street water pipes in the public ways, and to apportion the cost thereof exclusively against the owners of lots fronting the public ways to the middle of each square from the intersection at or near which the work shall be located, according to the number of square feet in such lots, or in any other equitable mode of apportionment which the general council may prescribe by ordinance, and lien shall exist against such lots for the respective apportionments by the board of public works, of the cost of digging and walling of public wells and cisterns, and the placing of water plugs and fire hydrants and attachments to street water pipes, with interest from the date of the apportionment at the rate of six per cent per annum until paid. (Acts 1898, Chap. 48. Approved March 19, 1898.)

Sec. 2912. Jurisdiction — examining court. Said court shall have original and exclusive jurisdiction in all cases of violations of municipal ordinances and by-laws occurring within the corporate limits of the city, and such criminal jurisdiction within the said limits as justices of the peace have, with the necessary power to carry into effect the jurisdiction given. Said court shall have exclusive jurisdiction, as an examining court, of all felonies and misdemeanors committed within the corporate limits of the city, and shall exercise all the powers and duties of examining courts. On the trial of any felony case the presiding judge may, in his discretion, order a full report of the testimony or such portion of the testimony as he may deem necessary; in which case it shall be the duty of said official stenographic reporter to cause shorthand notes of such or all of the evidence to be taken, and, upon request of the judge, to cause a full and accurate transcript of same to be made, or, in his discretion, the judge may order a tran-

script to be made out which will contain such parts of the evidence as he may deem material, which shall be returned to the Jefferson circuit court. At the conclusion of any trial for a felony or misdemeanor the court shall commit or discharge the accused, or hold him to answer before the proper court, as may be adjudged. If bond be required of the accused to appear and answer, said court shall have power to order the bond to be taken in such sum as it may direct. The bond together with the papers shall be transmitted by the clerk within twenty-four hours to the proper court. The bond shall be in writing, and it shall not be invalidated by any irregularity in its form, or in the manner of taking or giving the same. Persons arrested under a charge of crime must be presented to the court for trial within twenty-four hours after arrest, unless Sunday intervenes. (Acts 1898, Chap. 53. Received March 12, 1898.)

Sec. 2946. Stenographer appointed — term of office — salary — vacation. The judge of the court may appoint, for a term of not exceeding four years, a stenographer, who shall be paid by salary of twelve hundred dollars per annum, and the judge may remove him at pleasure. The stenographer may have such vacation as may be allowed by the judge of said court, not exceeding fifteen days in any one year, and, during vacation, the compensation of the stenographer *pro tem.* shall not be deducted from the salary of the regular stenographer. (Acts 1898, Chap. 53. Received March 12, 1898.)

Sec. 2974. District for taxation — annual report — census — penalty for parent refusing to report — duties of enumerator — penalty — county superintendent no control. When a city of the first class establishes and maintains a system of common schools, which all applying for instruction are permitted to attend free of charge, the same shall be deemed one school district for taxation purposes, and entitled to its proportion of the school fund. Such city shall, through its proper officers, deputed for that purpose, make its annual report to the superintendent of public instruction at the time and in a similar manner to that required of trustees of other districts. They shall also take the census of children of school age in the district each year, and make returns thereof to the superintendent of public instruction, at the same time other school trustees are required to make their returns, and shall, for neglect of their duties in that respect, be liable to the same penalties. The board shall appoint a sufficient number of enumerators to take the census within the time required by law, provided, however, that the board of education shall be allowed thirty additional days, if in their opinion they deem it necessary for an accurate and complete census, each enumerator to be at least twenty-one years of age, and a *bona fide* resident of the ward whose territory or a part of whose territory he is appointed to enumerate, and to take an oath or affirmation that he will take the census accurately and truly to the best of his skill and ability. The census shall be returned by wards, each block of which shall be enumerated on a separate list or lists, the street and number of residence of each person so listed to be given. The lists shall be made out in duplicate, one to be filed with the school board, and one to be forwarded to the superintendent of public instruction as aforesaid. No enumerator shall take

the census of any child not residing in the territory to which he is assigned, nor shall more than one enumerator be assigned to the same territory. Provided, however, that this shall not be construed so as to prevent the board of education from filling any vacancy caused by removal, resignation, or for any other causes. They shall not include in the census any person residing temporarily in the city for the purpose of attending school, or who are members of a family staying temporarily in the same, but whose actual residence is elsewhere, nor shall they enumerate others who reside in the city temporarily for whatever purpose, but whose parents or guardians reside elsewhere. They shall not include in the census any child that has been adjudged an idiot, that is blind, deaf and dumb, or that is in attendance at the State's institution for the feeble-minded. In case any parent or guardian, head of a family or other person having charge of any child entitled to school privileges, shall refuse to report to the enumerator any facts required herein, necessary to a full and accurate census, he shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than five nor more than twenty-five dollars. Each enumerator shall, when making returns of said census to the proper officers, make affidavit or affirmation that he has taken and returned the enumeration in accordance with the provisions of this act, to the best of his knowledge and belief, and that such list contains the names of all persons entitled to be enumerated, and no others. Each oath or affirmation provided for in this section shall be made a part of the blanks on which the census is taken and a matter of record in both the office of the school board and that of the superintendent of public instruction. Each enumerator shall be allowed reasonable compensation per diem for services, to be paid out of the school fund of said city. Any school officer, or other person appointed as enumerator, or any officer through whose hands the school census required by this act shall pass, who shall knowingly enumerate persons not entitled to be listed, or who shall, in any manner add to or take from the number actually enumerated, shall, in addition to being liable to punishment for the crime of false swearing, be deemed guilty of a misdemeanor, and, upon conviction of such offense, shall be fined in any sum not less than five nor more than one hundred dollars, or imprisoned in the county jail not less than ten nor more than thirty days, in the discretion of the court. The county superintendent of the county in which such cities are located shall have no control over the schools in such districts, but the same shall be governed in all respects as herein provided. (Acts 1898, Chap. 51. Received March 11, 1898.)

NOTE.—This Act is held void in part in case of *Louisville School Board v. City of Louisville*, 20 L. Rep. 142.

Sec. 2981. Ordinance fixing tax rate — levy to be subdivided. In the ordinance fixing for any year the tax rate the general council shall subdivide its levy as follows: A levy for schools, a levy for the sinking fund, a levy for police purposes, a levy for the fire department, a levy for street and sewer cleaning, a levy for sprinkling streets, a levy for the reconstruction of streets, a levy for street repairs, a levy for construction and repair of sewers, a levy for the house of refuge, a levy for charitable institu-

tions, a levy for parks, a levy for general purposes, a levy for library purposes, and a deficit tax. The general council may omit any of the foregoing levies, or the poll tax, when not demanded by the public "interests." (Acts 1898, Chap. 34. Approved March 15, 1898.) (Acts 1898, Chap. 43. Approved March 16, 1898.)

NOTE.—The first amendment added the words "A levy for library purposes," the second amendment added the words "Or the poll tax," in the last few lines of the above section.

Sec. 2982. Expenditures—limit of—provisions in case of excess or deficiency. In no fiscal year shall the general council appropriate or expend, or contract for the expenditure, of more than ninety-five per cent of the estimated revenue of the current year, unless more than that shall be actually collected; and if in any year less than ninety-five per cent of the estimated revenue shall be collected, any deficiency within ninety-five per cent may be provided for in the levy of the next year, and shall be called the "deficit tax." Any unexpended balance of an appropriation in any current fiscal year shall be added by the comptroller to the amount appropriated for the same purpose out of the levy for the succeeding year. Unappropriated balances of levies in any current fiscal year when collected shall be passed by the treasurer to the credit of the same funds for the succeeding year. (Acts 1898, Chap. 43. Approved March 16, 1898.)

Sec. 2993. Board of equalization—election of—removal of—compensation—powers—sessions. The board of equalization shall consist of three citizens of the city, to be elected annually in September by the board of aldermen. They may be removed by the general council. Vacancies caused by such removal, or by death, resignation, or departure from the city shall also be filled by the board of aldermen. The general council may compensate the members of said board out of the treasury at a rate not exceeding ten dollars to each for each day's service. Two members shall make a quorum. If two or all the members of the board fail to attend, the mayor may, by writing, under his hand, appoint others to take their places for the time being. The board, when made up in whole or in part of such appointees, may reduce, but can not increase assessments. The board of equalization after convening in November, shall close its sessions during the month of December following. (Acts 1898, Chap. 43. Approved March 16, 1898.)

Sec. 3005. Actions to recover taxes—provisions in regard thereto—decedents' estates—affidavit and demand not required—city may bid on real estate at decretal sale—redemption. On the first day of May of the second year after the assessment of city taxes the receiver shall make out a list of the bills still wholly or partly unpaid, on lands or improvements, and furnish the list to the city attorney, whose duty it shall be to bring, without delay, suits for the recovery thereof in the circuit court, except that where any litigation growing out of distrains or garnishments, or against guardians and others under section two hundred and seventeen is still pending, he may await the termination thereof before bringing such suit. In these suits the city shall, unless the person liable

for the tax be under disability, ask for and obtain a personal judgment against the person assessed, as well as the enforcement of the lien hereinafter given. The action herein authorized, and the judgment and subsequent proceedings therein (except as hereinafter excepted), shall be conducted in all respects like suits upon liens arising from contract, and the court shall have jurisdiction of all suits for taxes, irrespective of amount. The sums due for taxes of later and earlier years shall be included in the petition and in the judgment. New tax bills, which are included with older ones against the same owners, on which the attempt at distraint and garnishment has proved ineffectual, need not be dealt with by the receiver in the way provided herein. The omission of the receiver to act as prescribed herein shall not defeat any suit of the city for taxes. When an action heretofore or hereafter brought under this or the following section is still pending and undetermined, a new action upon subsequently accruing taxes may be brought, and either action may, in the discretion of the court, be carried to judgment separately, and a sale may be had under the judgment therein of sufficient property to satisfy the same, giving the purchaser a title free from tax liens set up in other causes. When for taxes assessed against a decedent, the city seeks only the enforcement of the lien on the lands or improvements, or lands and improvements assessed, the statutory affidavit and demand need not be made before beginning or reviving a suit, nor in support of the claim. At any decretal sale of real estate the city may, by the mayor, city attorney or assistant city attorney, bid the amount due such city for the taxes adjudged to be liens thereon, with interest and costs of suit and sale, and may become the purchaser of such real estate, with the same right to a conveyance and the possession thereof as provided by law in the case of any other purchaser. The owner of the real estate so sold, his heirs, representatives or assigns, shall have the same right to redeem such real estate from the purchaser thereof at any time within one year from the day of sale, as is provided by law in the sale of real estate under execution, by paying to such purchaser the amount of the purchase price at said sale, with ten per cent interest thereon per annum from the day of sale. No real estate thus acquired by the city, except such as may be proper and necessary for public purposes, shall be held by the city for a longer period than five years, and unless the same is sold and conveyed by the city within said period, the title thereto shall escheat to the Commonwealth of Kentucky. (Acts 1897, Chap. 23. Approved May 26, 1897.)

Sec. 3017. How grade or class of license determined — appeal. Every business, profession, occupation, calling, or subject herein provided to be licensed, where the maximum and minimum sum for the license is herein fixed, the general council may grade and class the respective subjects of license, and fix the rate of licenses for each grade or class at or within the maximum rates herein provided for such subjects respectively. In granting licenses the treasurer and secretary of the sinking fund shall, from the oath of the applicant or other evidence, ascertain the grade in which such applicant should be licensed; but said applicant shall have the

right, within ten days, to appeal, in writing, to the commissioners of the sinking fund from the action of the treasurer and secretary, and the commissioners shall have power to determine in which grade the applicant shall be placed. In all cases where the amount of license to be paid by any person, firm, or corporation is based upon, or regulated by, the amount of sales made or business done, such person, firm, or corporation shall render a sworn statement to the treasurer and secretary of the sinking fund of the total amount of sales made or business done by them respectively during the preceding year, which statement shall be considered in determining the amount for which such license shall be issued.

All acts or parts of acts inconsistent or in conflict with this act are hereby repealed. (Acts 1898, Chap. 14. Approved March 14, 1898.)

Sec. 3117. Selection of official newspaper. The mayor shall annually select a daily newspaper to be known as the official newspaper of the city, and in such official newspaper for the term of one year shall be regularly and promptly published a correct and full abstract of the proceedings of both boards of the general council and of all ordinances, resolutions, and notices which, under this act, or the ordinances of the city, may be required to be published; but the price for such publication shall not exceed the regular advertising rates for such newspaper. The mayor may examine the subscription books and other evidences offered by competitors to enable him to reach a just determination, and the determination of the mayor shall be final. No ordinance or resolution appropriating or paying less than fifty dollars shall be published, nor shall ordinances for street or other public improvements, or proposals or bids for such improvements, include details or specifications, but these shall in the proper office be open to examination, and the notices shall so state. (Acts 1898, Chap. 68. Received March 15, 1898.)

Sec. 3136. Custody of records — attestation of official acts — public printing — bond. He shall have the custody of the public records. The original or engrossed copies of ordinances of the city, all original or copies of contracts, deeds, and certificates relative to the title of any property of the city; all original or copies of official, penal indemnity and security bonds, and such other records, papers, and documents of value as are not required to be deposited in any other office; all of which shall be registered by number, date, and contents. He shall keep the contract book and ordinance book of the city, and have all contracts and ordinances accurately entered and engrossed in said books respectively. He shall attest all public instruments and official acts of the mayor by his signature and the seal of the city. He shall make copies of such original documents, records and papers in his office as may be required by any officer or person, and charge therefor such fees as may be provided by ordinance, said fees to be for the use and benefit of the city. He shall have general supervision of the public printing and see that it is properly executed, and shall file and preserve in his office printed copies of all ordinances passed by the general council which became laws. He shall register and preserve in his office all contracts, bonds, oaths or affirmation taken or given by city officers or

employees, and may administer such oaths or affirmation. He shall give bond for the faithful performance of his official duties, in the sum of not less than ten thousand dollars, with such solvent security as may be approved by the mayor and general council, and shall receive such salary and perform such other duties as the general council may provide by ordinance. (Acts 1898, Chap. 63. Received March 15, 1898.)

Sec. 3143. Appointment—number—qualifications—bond—powers and duties—treasurer. In such cities of the second class as now own a water works system there shall be a board to be styled the "Commissioners of the Water Works," to be composed of three members appointed by the mayor, subject to the approval of the board of aldermen. They shall have the qualifications required for aldermen, their terms of office shall be three years and until their successors are appointed and qualified, except that the members first appointed under this act shall be appointed for one, two, and three years respectively, and thereafter one member shall be appointed each year for a term of three years. The first appointments of said commissioners shall be made in May, one thousand eight hundred and ninety-four. Said commissioners shall give bond for the faithful performance of their duties in the sum of five thousand dollars, and they shall be paid such compensation as the general council may fix, not exceeding five hundred dollars per annum, nor less than three hundred dollars, each, per annum; said commissioners shall control and manage the water works and water system of the city, subject to such regulations and limitations as the general council may by ordinance provide; they may appoint and remove a superintendent, secretary and other necessary employees, and allow them such compensation as the general council may approve. They shall make full monthly reports to the general council of the operation and condition of the water works or water system of the city, including all receipts, expenditures, repairs and work connected therewith. The city treasurer shall be *ex officio* treasurer of said board; two members of said board shall constitute a quorum for the transaction of all business of the board. (Acts 1898, Chap. 63. Received March 15, 1898.)

Sec. 3210. Free public library—control of—appropriation for. That as soon as a sufficient fund for that purpose shall be accumulated under the provisions of this act, augmented by private contributions or otherwise, there shall be established and maintained a free public library, which shall be under the direction and control of a board of trustees, consisting of five members to be appointed by the mayor for a term of four years, to be styled "The Board of Trustees of the Public Library." Said board shall have the custody, control, management, and expenditure of all funds that may heretofore have been accumulated for free public library purposes, or that may be hereafter accumulated for or devoted to said purposes. The members of said board shall serve without compensation, they shall each give a bond in the sum of five thousand dollars for the faithful performance of their duties, and shall take an oath faithfully to perform their duties before the mayor. Said board shall have the power necessary to establish, maintain, and conduct said free public library, and said board

shall establish rules and regulations for the proper conduct of said library. Said library shall be open and free to the public, under such rules and regulations as aforesaid, during reasonable and proper hours, and until at least nine o'clock at night, but said library may be closed on Sunday if deemed proper. When there is already established in the city a public library, the board of trustees of the public library may enter into an agreement with the person, association or corporation owning and controlling such library, whereby such library may be transferred or leased to said board for a term of years or in perpetuity or united with that established by the city under the provision of this act. Said library shall be strictly non-sectarian, and so conducted. In aid of the establishment and maintenance of such library, there is hereby appropriated, and the general council shall annually direct to be paid over to said library board, three percentum of the net amount of taxes levied annually in the city for school purposes, and one-half of the net amount of all fines and costs collected in the police court. (Acts 1898, Chap. 63. Received March 15, 1898.)

Sec. 3219. Board to annually report expenses for ensuing year—levy and collection of tax. Said board shall annually, in the month of January, approximately ascertain the amount of money necessary to be used to defray the expenses of maintaining the schools, improving or constructing of buildings, and so forth, thereof, and any liquidations of the liabilities during the current fiscal year, and report the same, together with the amount to be received from the common school fund of the State of Kentucky (which amount the board shall ascertain by taking the census required by law in April), to the auditor, and thereupon the general council shall, at the request of said board, levy and collect such taxes as may be requested, and the money arising from said levy shall, under the direction and control of said board, be used for the benefit of the common schools and for the purpose of paying off the indebtedness of said board. Provided, that said levy shall not, in any one year, exceed thirty-five cents on each one hundred dollars' valuation, and ten cents on each one hundred dollars' valuation additional for sinking fund purposes, as returned by the board of equalization on all taxable property in the city. And provided further, that this act shall not be so construed as to prevent said board from receiving and expending any sum or sums that may come to them by gift, devise, or any law of the State. The tax bills for all taxes levied by the general council for the public schools shall be made out by the city clerk and included in the tax bills containing the ordinary levy, and shall be collected with the same, by the same officer, and in the same manner that the ordinary levies are collected by the collecting officer, and the powers and duties conferred and required of officers in collecting the ordinary city taxes are hereby conferred and required of them in collecting the taxes levied for said public schools; and such collecting officer and his sureties shall be liable under his official bond for any failure to perform his duties, upon which bond suit may be brought for the use of said board and recovery had for such amount as shall be found due thereon. All such sums of money when collected and paid into the city treasury, shall be set

apart to, and passed over to, the common school fund, subject to, and drawn out only by the order of said board, as provided by law and ordinances of the said board then existing. (Acts 1896, Chap. 17. Approved March 17, 1896.)

Sec. 3483. Boundary — adding or striking off territory — how done — jurisdiction of circuit court. The boundaries of cities of the fourth class shall until changed as herein provided, remain as now established by law. Whenever it shall be deemed desirable to annex any territory to a city in this class, or to reduce the boundaries thereof, the same may be done in the following manner: The board of council of such city shall, by ordinance, accurately define the boundary of the territory proposed to be annexed or stricken off, either upon their own motion, or, if requested to do so by written petition of at least twenty-five voters and resident taxpayers of the city, or residing within the proposed boundary to be added, or stricken therefrom, shall pass the ordinance in conformity with the requests of such taxpayers. Such ordinance shall be published for not less than three weeks in a newspaper published in such city or county; if there be no newspaper published in the city or county, the ordinance shall be advertised by hand bills to be posted for at least fifteen days at four or more public places in the city, and at the same number of the most public places within the territory proposed to be annexed or stricken off. Within thirty days after the adoption, publication, and advertisement of such ordinance, a petition shall be filed in the circuit court of the county within which said city may be situated, in the name and on behalf of the city, or in the name of one or more of the said petitioning taxpayers, setting forth the passage, publication, and advertisement of such ordinance, the object and purposes thereof, together with an accurate description by metes and bounds of the territory proposed to be annexed to or stricken from the city, and praying for a judgment of the court to annex said territory or to strike same from the city, as the object may be. The said petition shall be filed not less than twenty days before the first day of the next succeeding term of the circuit court in that county. And all parties to be affected by the proposed change in the boundary to be added or stricken shall be made parties, plaintiffs or defendants, and served with process, and such other proceedings to bring them before the court as now provided by law. If no defense be made the first term of the court after the filing of said petition and service of process as provided by law, and the court shall make no order for granting further time for making defense, the court shall render a judgment annexing or striking off the proposed territory, as the object of the proceedings may be. But at the first term of the circuit court, or within the time fixed by the court by its order, the board of council of such city or any one or more of the resident voters of the territory proposed to be annexed or stricken off may file a defense in said proceedings, setting forth the reason why such territory or any part thereof should not be annexed to the city, or why the limits of the city should not be reduced. The case shall be tried by the court without the intervention of a jury. If the court upon hearing be satisfied that less than a majority of the resident voters of the territory sought to be annexed or stricken off have remonstrated against the proposed extension or reduc-

tion, and will in its effect impose no unjust burden upon the citizens within such boundary, it shall so find, and the proposed extension, or reduction, shall be decreed, or adjudged. But if the court shall find that a majority or more of the resident voters in the territory to be added or stricken, remonstrated against such change, and that such change will cause material injury to the owners of real estate in the limits of the proposed extension, or reduction, and will in its effect impose unjust burdens upon the citizens within said boundary, it shall so find. And said extension, or reduction, shall be denied. If the judgment of the court is adverse to the proposed change, no further effort to annex or strike off the territory so proposed shall be made within two years after the entering of the judgment. Cost shall follow the judgment, and no appeal shall be made from the judgment of the circuit court. If the judgment in such proceedings be in favor of the proposed annexation or reduction of the corporate limits, it shall be certified by the clerk of the court to the board of council, and entered upon the records of the board, and the board shall thereupon by ordinance, annex to or strike from the city the territory described in the judgment. Provided, the circuit court shall have no jurisdiction of such proceedings, unless the required publication or advertisement of the ordinance proposing the extension or reduction of the limits of the city is proven by one or more affidavits filed as part of the petition in said action. (Acts 1898, Chap. 45. Approved March 17, 1898.)

Sec. 3652. Police judge — fees — bond. The police judge shall be entitled to charge and receive for his services such fees as are or may be allowed by law to county judges for services rendered in quarterly courts. The council shall, by ordinance, provide who shall act in the place of the police judge when he is absent, or when from any cause he can not preside, or when he is sworn off the bench. Provided, he shall before he enters upon the duties of his office, execute a bond to the Commonwealth with good and sufficient sureties, to be approved by the county judge, to the effect that he will faithfully discharge the duties of his office. The bond shall be filed and recorded in the county clerk's office and an entry made upon the order book of the county court, showing that the bond was executed and approved, and giving the names of the sureties therein. The county judge shall, at any time that he may have reason to believe that said bond is not good, or that the sureties are about to become insolvent, require the execution of a new bond or additional sureties on the old one. (Acts 1896, Chap. 26. Approved March 17, 1896.)

SECTIONS HELD VOID IN PART.

Sec. 2882. (Held void in part in *Gorley v. City of Louisville*, 20 Ky. Law Reporter, 602.)

Sec. 3453. (Held void in *Meyer v. City of Covington*, 45 S. W. 769, and *Woodward v. Collett*, 48 S. W. 164.)

Sec. 3661. (Held void in part in *Jernigan v. City of Madisonville*, 19 Ky. Law Reporter, 1412.)

Sec. 3662. (Held void in part in *Jernigan v. City of Madisonville*, 19 Ky. Law Reporter, 1412.)

TO AUTHORIZE CITIES OF SECOND CLASS TO ACQUIRE TURNPIKE ROADS.

(Acts 1898, Chap. 33. Approved March 15, 1898.)

Sec. 1. Cities of second class may acquire turnpike roads. That all cities of the second class are hereby authorized and empowered to contract with any person, company, or corporation owning or controlling any turnpike road in this Commonwealth for the surrender and transfer to any such city of so much of or any part of any turnpike road as may be within the limits of such city; and when a contract for such surrender or transfer is ratified by the legislative boards of such city, then the part of such turnpike road embraced in such surrender or transfer shall become and be a public highway and street of such city, and shall thereafter be held, controlled, and used as other streets.

Sec. 2. Condemnation proceedings. If any such city and the person, company, or corporation owning or controlling such turnpike road can not agree upon the terms of surrender or transfer of such part of such turnpike road, then power and authority are hereby conferred upon such city to acquire the part of, or any part of, such turnpike road within the corporate limits of such city by proceedings in condemnation in manner and form as such city is now by law authorized to acquire other property for street and highway purposes.

TO PROVIDE FOR PUBLIC LIBRARY IN CITIES OF FIRST CLASS.

(Acts 1898, Chap. 34. Approved March 15, 1898.)

Sec. 1. Public library — how acquired. That the mayor, with the consent of the general council, may by contract enter into an arrangement for a period not exceeding five years, and renew the same from time to time thereafter, with the association or corporation owning or controlling an existing library in any such city, which contains not less than fifty thousand volumes, to the end that such library shall be free and open to the public, and all persons residing or sojourning in any such city, at all reasonable times and under proper and reasonable regulations (except that it may be closed on Sunday, if deemed proper by such association or corporation). In said contract it shall be provided that such library shall, during the period thereby covered, be open and free to the general public as aforesaid, the uses, privileges, and facilities thereof, subject to the reasonable and proper direction and regulation of its governing body, being equal and free to all persons applying therefor; that it shall be non-sectarian and be so conducted, and its reading room or rooms, and its circulating department shall be maintained free and open to the general public.

Sec. 2. Tax levy for library purposes — annual report. As consideration for such public use, such city shall annually, in its annual ordinance fixing the tax rate, include a levy for library purposes not exceeding two cents on each one hundred dollars' worth of property assessed for taxation for city purposes, and the amount levied as above shall annually be passed to the credit of the library fund upon the books of said city, and the said amounts as collected shall be paid over to the association or corporation

aforesaid, by the treasurer, in regular weekly installments, the first payment to be made within one week after the collection of the said amount shall have been commenced, and the other payments to be made weekly thereafter in current money by the said treasurer as collected; all money so received by such association or corporation shall be used in conducting and maintaining said library for the public purposes aforesaid and for none other. Said corporation or association shall annually, in the month of September, make a report to the mayor, showing statistics covering the attendance at, and the use of the books of the library, the receipts and expenditures of all moneys handled by it during the year, and such other information as may bear upon the usefulness of said library to the public.

TO AUTHORIZE APPOINTMENT OF POLICE MATRON IN CITIES OF THE
FIRST CLASS.

(Acts 1898, Chap. 10. Approved March 10, 1898.)

Sec. 1. Station houses for female prisoners. That within ninety days after the adjournment of the present General Assembly, the mayor of each city of the first class shall designate one or more station houses within the said city for the detention of all female prisoners who may be properly detained in a station house while awaiting trial, and said mayor may thereafter change the station house or station houses so designated. Provided, however, that at least one station house shall always remain as a place in which female prisoners shall be detained, until they shall have been set at liberty, or removed by order of a competent court.

Sec. 2. Jail may be designated. Where there shall be a county jail in said city of the first class, the mayor of said city shall also designate it as a place in which female prisoners may be detained, awaiting trial or after trial, until removed or set at liberty by the order of a competent court.

Sec. 3. Appointment of police matron and assistants. Immediately upon such designation of such station house or station houses and county jail, if there be a jail in such city, the mayor of said city shall appoint for each of said station houses and jail, two respectable women to care for and have supervision over the female prisoners in said places of detention. One of the women appointed by the mayor shall be called police matron, and she shall be stationed at the jail, if there be a jail in the county, and there shall also be appointed by the mayor an assistant police matron for the jail, and two assistant police matrons for each of the station houses which may have been designated by the mayor for the detention of female prisoners.

Sec. 4. Police matron—how recommended. No woman shall be appointed either police matron or assistant police matron who has not been recommended to the mayor by a committee of women, composed of one woman selected by each of the following organizations, viz: Home of Friendless Women, Flower Mission, Free Kindergarten Association, Humane Society, Charity Organization Society, City Federation of Women's Clubs,

Kentucky Children's Home Society, District Women's Christian Temperance Union of Louisville, Kentucky, and Women's Christian Association. If all of said associations shall not appoint a representative on said committee, then the mayor shall make the appointments herein provided for, upon the recommendation of those of the said associations who do appoint a representative upon said committee.

Sec. 5. Term of office. Neither the police matron nor assistant police matrons shall be appointed for any definite term, but they shall hold their positions until removed, which may be done at any time by the mayor, by a written order, stating the cause of such removal, and a copy of the order shall be furnished by the mayor to the committee above provided for. Upon the death, resignation or removal of either of the women so appointed by the mayor, her successor shall be appointed in the manner aforesaid, within two days after a successor or successors shall have been recommended to the mayor by the committee provided for in section four of this act.

Sec. 6. Must be on duty at all hours. The hours of service of the police matron and the assistant matrons shall be so arranged by the chief of police that at least one of them shall at all hours of the day and night be on duty at each of the places in which there shall be one or more female prisoners detained. The police matron shall have, subject to the control of the chief of police, the entire care of women and children under arrest in the station house or jail, designated for female prisoners, and she may call upon a police officer or a jailer, or his deputy for assistance.

Sec. 7. Accommodations for women. In every station, or jail, in which a police matron or an assistant police matron serves, sufficient and proper accommodation shall be provided therein for women confined under arrest. There shall also be provided at said jail and at each station house designated for female prisoners a comfortable and suitable room or rooms which the police matron or the assistant police matron, as the case may be, may occupy; and if, in the opinion of such matron, the accommodations are not sufficient, or proper, she shall notify the mayor, and he shall provide the necessary and proper accommodations; the expense necessary therefor to be paid by the city.

Sec. 8. Notice to police matron. Whenever in any city where a police matron should be appointed under this act, a woman or child taken to the station house or jail to which a police matron or assistant police matron is attached, and she shall not be present at the time said woman or child is received, the keeper of said station or jail shall immediately notify her that such female or child was detained at said place.

Sec. 9. Assistants under control of matron. The police matron shall, subject to the chief of police, have charge of the assistant police matrons and shall instruct them as to their duties, and shall see that they give proper care to the female prisoners under their charge.

Sec. 10. To attend courts. The police matron or one of the assistant police matrons shall attend the circuit court and police courts in said city, whenever a female prisoner is brought before said courts, and she shall have charge of said women, subject to the orders of the court.

Sec. 11. Meaning of "police station" and "woman." The words "police station," shall be construed under this act to mean any places where persons are temporarily under arrest; the word "woman" shall include any person of the female sex.

Sec. 12. Search of prisoners — salary of police matron. Whenever it becomes necessary to search a female prisoner, it shall be done by or in the presence of the police matron, or an assistant police matron. The salary of the police matron shall be sixty-five dollars per month, and that of each of the assistant police matrons forty-five dollars per month. The expense necessary for the providing the proper accommodations for the police matron and assistant police matrons at the jail, and for sufficient and suitable accommodations for the female prisoners detained therein, as provided for in this act, and the salary of the police matron and the assistant police matron at the jail, shall be borne by the city and county in which said jail is located, jointly in the same way as other expenses are now apportioned between the county and city of the first class, and the expenses necessary for providing a suitable room or rooms at each of the station houses designated for the detention of female prisoners and the salary of each of the assistant police matrons at said station houses, and the expense for providing suitable accommodations for said female prisoners, shall be borne by the city of the first class as other expenses in the police department are provided.

CHAPTER 93. OFFICE AND OFFICER.

SECTIONS AS AMENDED.

Sec. 3763. Salary — deduction from for failure to perform duties without good excuse — affidavit — how deduction made — how applied. If any judge, Commonwealth's attorney, or other officer paid in whole or in part out of the State treasury, or by any county, shall fail or neglect without good excuse therefor, to perform the duties of his office, said excuse for failure to perform said duty to be set out in full by affidavit by the person so failing, and duly certified by order of court to the auditor or other paying officer, there shall be deducted from the amount of the salary of such officer thereafter paid to him by the State or county, such an amount as the total number of days during the year in which he failed or neglected to discharge his duty bears to the whole number of days in the year for which he received compensation; and so much of said amount so deducted as is necessary shall be applied to the payment of the special judge or other officer who performs the duty of the judge or officer so failing. (Acts 1897, Chap. 26. Approved May 26, 1897.)

CHAPTER 97. PENITENTIARIES.

AMENDED SECTIONS.

Section 3795.....p. 86.	Section 3812.....p. 88.
Section 3796.....p. 87.	Section 3813.....p. 89.
Section 3799.....p. 87.	Section 3814.....p. 89.
Section 3810.....p. 87.	

SECTIONS AS AMENDED.

Sec. 3795. Board of commissioners — time of election — term of office — compensation — qualifications — removal. That a board of commissioners is hereby created to govern the penitentiaries of this Commonwealth. Said board shall consist of three members to be elected by the General Assembly on or before the tenth day of March, eighteen hundred and ninety-eight, one of whom shall hold his office, to be determined by lot of commissioners elected, for the term of two years, one for the term of four years, and one for the term of six years, or until their successors are elected and qualified. The General Assembly shall, in nineteen hundred, elect a successor to the commissioner whose time expires in two years from the passage of this act. The General Assembly, in nineteen hundred and two, shall elect a successor to the commissioner whose time will expire four years from the passage of this act, and the General Assembly, in nineteen hundred and four, shall elect a successor to the commissioner whose time will expire six years from the passage of this act, and each succeeding General Assembly shall, at their regular session, elect one commissioner who shall hold his office for the term of six years, and who shall before entering upon the discharge of his duties execute a bond to the Commonwealth of Kentucky in the sum of twenty-five thousand dollars for the faithful discharge of his duties; said bond to be approved by the chief justice of the court of appeals and filed with the auditor of public accounts. Said commissioners shall each receive as compensation for their services two thousand dollars per annum, payable monthly, out of the State treasury, and traveling expenses when in discharge of their duties. No person shall be appointed to the office of penitentiary commissioner who has not been a citizen of Kentucky continuously for the last five years previous to and up to the time of his election or appointment, and who is not twenty-five years of age, and who is a contractor in the penitentiary, or the agent or employe of any such contractor, or who is interested, either directly or indirectly, in any kind or branch of business in said penitentiary, or who shall at the time hold any other office under the laws of this State; and no such commissioner shall hold any other office or accept any appointment under this or any other law of this State, during his continuance in office as such commissioner. Vacancies in said board, occasioned by death, resignation, or otherwise, shall be filled by appointment by the governor until the next regular session of the General Assembly, when such vacancy shall be filled by election by the General Assembly. The General Assembly

may at any time remove any or all the members of said board of commissioners with or without cause. The duties of said board shall be as herein-after described. (Acts 1898, Chap. 4, Sec. 1. Passed March 5, 1898.)

Sec. 3796. Warden — election — term — bond — removal. A warden for each penitentiary shall be elected by the commissioners of the said penitentiaries, who shall hold his office for the term of four years; but the commissioners shall have the power for cause, to remove any warden and appoint or elect his successor, and the action of said commissioners thereon shall be final and conclusive. Before entering on the discharge of the duties of the office the warden shall take the constitutional oath and execute a covenant to the Commonwealth of Kentucky in the sum of sixty thousand dollars, with two or more good sureties, to be approved by said commissioners, whose duty it shall be to take said bond, and shall file the same with the auditor for safe keeping, to the effect that he, as warden, shall faithfully discharge and perform all of the duties required of him, and all the obligations imposed upon him according to law, and that he shall faithfully account for all money that may come to his hands, and pay the same into the State treasury, when, and as required by the commissioners; and that he shall faithfully account for all the property in his hands or under his control belonging to the State when he ceases to be warden, or is required to do so by said commissioners; and if at any time the commissioners shall deem the sureties on the bond of the warden insufficient, it shall be their duty to require him to give an additional bond, with sufficient security, which additional bond shall in no wise impair, lessen, or affect the liability of the sureties on the original bond to the Commonwealth; and if said warden declines, neglects, or fails to give such additional bond within thirty days after the said commissioners serve notice on him requiring him to do so, they shall declare the office of warden vacant, and shall fill the vacancy by appointment. (Acts 1898, Chap. 4, Sec. 2. Passed March 5, 1898.)

Sec. 3799. Warden — to purchase supplies — clerk to enter same. The warden shall, with the advice and consent of the commissioners, contract for and purchase all necessary raw material, and all supplies necessary to maintain, conduct and carry on the business of the penitentiary as provided by this act; and all articles purchased for the penitentiary, and all articles of manufacture and other things made or fabricated in the penitentiary by the labor of the prisoners, when the same are sold from time to time, and all work done for others, shall be reported to the clerk of the penitentiary, whose duty it shall be to enter the same in the regular account-books of the penitentiary. (Acts 1898, Chap. 4, Sec. 5. Passed March 5, 1898.)

Sec. 3810. Failure to hire convicts — appropriation — action for debts. In the event of failure, after faithful effort, to hire the labor of the convicts, as herein required, and it becomes necessary for the wardens to carry on the business of the penitentiaries, then the said commissioners shall furnish the wardens with such amount of money, out of the State

treasury, as may be unexpended out of an appropriation of three hundred thousand dollars, under an act of the General Assembly of this Commonwealth, approved May the fifth, eighteen hundred and ninety-three, from time to time, as may be needed to place the institutions, or either of them, on proper footing for successful operation; or so much thereof as may be necessary is hereby appropriated out of any fund in the State treasury not otherwise appropriated, to be paid out by the treasurer on warrants of the auditor, which warrants shall be issued by the auditor, only at such times and for such amounts as the commissioners may by order of the board direct. The business of the institution shall be conducted as near as possible on the cash system, and no account of the work done or articles sold shall be permitted to run longer than four months. Actions or suits for the recovery of money upon any debt, demand or claim for work done by labor of the convicts, or for manufacturers, or for articles sold, or upon any contract made with the warden, shall be brought and prosecuted in the name of the Commonwealth of Kentucky in the Franklin circuit court; and the affidavit of the clerk of the prison certifying that such debt, claim or demand is just and correct, shall be *prima facie* evidence that the same is justly due and owing, and the onus shall devolve upon the defendant or contesting party to prove the contrary. (Acts 1898, Chap. 4, Sec. 16. Passed March 5, 1898.)

Sec. 3812. Commissioners to take oath — duties. Before entering upon the discharge of their duties under this law, the commissioners shall take an oath to faithfully and impartially discharge the same to the extent of their ability. When any duty is required of them in this law, it shall be competent for a majority of them to act, if all can not be present and participate, except as to the appointment of the officials, and in the advertisement for acceptance of bids, and making contracts and taking bond from the contractors for the labor of the convicts. As to these matters, all of said commissioners must participate, unless prevented by unavoidable casualty. It shall be their duty to formulate and prescribe, for the use of the penitentiaries, all needful regulations and by-laws for the government and discipline of the penitentiary, the rules for the government and conduct of the warden, deputy warden, and all the officials connected with the penitentiary, also for the government of the prisoners in their deportment and conduct. They shall prescribe the character of the food and diet of the prisoners. They shall also prescribe all needful rules for the preservation of the health of the convicts, for the daily cleansing of the penitentiary, for the cleanliness of the persons of the convicts, and for the general sanitary government of the penitentiary and the prisoners in all particulars, the character of the labor, the character and quantity of food and clothing, and the length of time during which the convicts shall be daily employed. It shall be the duty of at least one of their number to visit each of the penitentiaries each day, and at least once a month in a body, for the purpose of examining the condition of the penitentiaries, the management and condition of the convicts, and whether or not the rules are being obeyed and enforced. They shall hold stated monthly meetings on the first Tuesday in

each month, and such call meetings as the chairman or any two of its members may demand; and shall keep, in a book kept for that purpose, a full record of their proceedings. They shall cause the rules and regulations prescribed by them, together with the law allowing commutation of time to prisoners for good conduct, to be printed and posted in conspicuous places within the cell houses and in the workshops. It shall also be their duty to keep in repair the penitentiaries, and if, at any time, the same should be so seriously out of repair as to render delay imminently dangerous, may make such expenditures as are necessary to fully protect the State's property. They shall cause the convicts to be classified, so that the old and hardened criminals shall not be thrown with the youthful criminals, so far as the same can be done without in any way interfering with the free use of all the convicts that may be hired to any contractor or contractors. (Acts 1898, Chap. 4, Sec. 18. Passed March 5, 1898.)

Sec. 3813. Salaries, how paid — officials not to be interested in convict labor — penalty. The salaries of the wardens, deputy wardens, physicians, chaplains, and the wages of the guards shall be paid monthly out of the State treasury, and the auditor of public accounts shall draw his warrant upon the treasury therefor, in favor of each of said officials, upon the written order of the chairman of the commissioners, and they shall respectively receive the following salaries, to wit: The warden, two thousand dollars per annum; the deputy warden, one thousand two hundred dollars per annum; the physician, one thousand two hundred dollars per annum; the clerk, one thousand two hundred dollars per annum; the chaplain, one thousand two hundred dollars per annum; the guards or assistants for each penitentiary, sixty dollars each per month. No official connected with the penitentiaries shall be directly or indirectly connected or concerned with any contract for furnishing the warden or any contractor any materials for manufacture or use in the penitentiary, or any supplies or produce to be used in the penitentiary or by the convicts, in any way whatever; and they shall not be interested in a financial way, with any business carried on by convict labor. For a violation of the provisions of this section the officials so violating shall be, for each offense, fined one thousand dollars. (Acts 1898, Chap. 4, Sec. 19. Passed March 5, 1898.)

Sec. 3814. Warden and clerk to settle—report—duty of commissioners — how salaries paid. The warden and clerks of the penitentiary shall once in every year, and oftener if so required by the commissioners, at such time as the commissioners may appoint, make a full general settlement of their account vouchers and books with said commissioners, who shall annually report said settlement, together with all other matters pertaining to said penitentiaries and management of same, to the governor, which report shall be laid before the next General Assembly. The said commissioners are hereby directed and empowered to examine into all existing contracts for labor of convicts or sale of manufactured products of the penitentiaries, and if they find that they are not beneficial to the State, or that the contracts have in any way been violated, they are directed to annul such contract, and, if necessary, by legal proceeding in the name of

the Commonwealth. For the purpose of paying salaries of officers, guards, and all other employes provided for in this bill and carrying out other provisions thereof, the auditor of public accounts is hereby authorized and directed to draw his warrant upon any funds in the treasury not otherwise appropriated upon written request of the board of commissioners; entries of this must be made in a book kept especially for that purpose, and attested by the clerk. Inasmuch as the present contracts as to the use of convicts demand immediate attention and revision, an emergency is declared to exist, and this act shall take effect from its approval by the governor. (Acts 1898, Chap. 4, Sec. 20. Passed March 5, 1898.)

NOTE.—This Act was held to be constitutional in *Commissioners of Sinking Fund v. George*, 47 S. W. 779.

CHAPTER 107. REGISTER.

TO ABOLISH THE OFFICE OF REGISTER OF THE LAND OFFICE, AND CONSOLIDATE WITH THE OFFICE OF AUDITOR OF PUBLIC ACCOUNTS.

(Acts 1898, Chap. 11. Approved March 11, 1898.)

Sec. 1. Office of register abolished. That the office of register of the land office of the State of Kentucky is hereby abolished and consolidated with the office of auditor of public accounts, to take effect at the end of the present term.

Sec. 2. Office, books, and records to be turned over to auditor of public accounts. That said office, together with all books, records, and fixtures belonging thereto, shall at the end of the present term be turned over to the auditor of public accounts, who shall take charge of the said office, and perform all the duties pertaining thereto that are now, by law, required to be performed by the register of the land office.

Sec. 3. Powers and duties of auditor. That for the purpose of more effectually carrying out the provisions of this act, power is hereby specially given to, and conferred upon, the auditor of public accounts, to do and perform all acts and duties now by law required to be done and performed by the register of the land office, for which he shall have the right to charge the same fees, and shall be governed by the same laws in relation thereto as the register of the land office.

Sec. 4. Auditor may employ clerk. That the auditor of public accounts upon taking charge of said office shall have the right to employ an additional clerk at an annual salary not to exceed twelve hundred dollars per annum, payable out of the State treasury.

NOTE.—See Constitution of Kentucky, Secs. 91 to 96.

CHAPTER 108. REVENUE AND TAXATION.

AMENDED SECTIONS.

Section 4019.....	p. 91.
Section 4147.....	p. 92.
Section 4151.....	p. 92.

SECTION HELD VOID.

Section 4215.....	p. 93.
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NEW ACTS UNDER THIS CHAPTER.

Concerning the Taxation of Corporate Franchises by Cities of First and Second Class.....	p. 93.
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SECTIONS AS AMENDED.

Section 4019. Tax rate — purposes to which tax is applied. An annual tax of fifty-two and a half cents upon each one hundred dollars of the value of all property directed to be assessed for taxation, as hereinafter provided, shall be paid by the owner, person or corporation assessed. The aggregate amount of tax realized by all assessments shall be for the following purposes: Fifteen cents for the ordinary expenses of the government; five cents for the use of the sinking fund; twenty-two cents for the support of common schools; and one-half of one cent for the Agricultural and Mechanical College, as now provided by law by an act, entitled "an act for the benefit of the Agricultural and Mechanical College," approved April 29, one thousand eight hundred and eighty, including the necessary traveling expenses of all pupils of the State entitled to free tuition in said college and who continue students for the period of ten months, unless unavoidably prevented; and ten cents for the exclusive purpose of paying claims and interest thereon due from the State of Kentucky, which have been audited, and for which warrants have been, or should have been, issued at the time this act shall have become a law.

The provisions of this act fixing rate of taxation at fifty-two and one-half cents on one hundred dollars in value of property assessed for taxation and the application of the revenue derived therefrom shall continue in force for a period of three years from the time this act shall have become a law, and at the expiration of said period the rate of taxation shall be forty-seven and a half cents upon each one hundred dollars in value of all property assessed for taxation, to be applied as follows: Fifteen cents for the ordinary expenses of the government; five cents for the use of the sinking fund; twenty-two cents for the support of the common schools; one-half of one cent for the Agricultural and Mechanical College, as now by law directed, and five cents for the exclusive purpose of paying any outstanding warrants and interest thereon. (Acts 1897, Chap. 10. Approved May 8, 1897.)

Sec. 4147. Sheriff to report to county court money collected — penalty. The sheriff or collector of the State and county revenue of each county of this Commonwealth, shall, on the first secular day of May, July, September, November, and December in each year, report under oath, to the county court of his county, the amount of State and county taxes he has collected, together with all fines, forfeitures or money on any other account that shall have been received or collected by him, showing in said report the amount collected for and belonging to each particular fund, for which such revenue or money may be intended. Said report shall be filed and recorded in a separate book furnished by the county clerk for that purpose, which shall be open for inspection in the office of the county clerk. The sheriff or collector shall be required by the fiscal court to pay a penalty of six per centum on the amount of all taxes levied by the said court that shall be uncollected, if collectible, or if collected, shall not have been paid by him on proper demand to the parties or funds entitled thereto, on the first day of January in each year after he was required to collect such taxes, which penalty shall inure to the benefit of the county. And if the sheriff or collector shall, without reasonable excuse, fail to pay to the person entitled thereto upon proper demand of each person, his agent or attorney, the amount due upon any claim allowed by the fiscal court, and payable out of taxes levied by the fiscal court, if collected or collectible by him, he and his sureties on his county revenue bond shall be liable therefor, together with a penalty of fifteen per centum of the amount of such claim, which shall be recoverable by the person entitled thereto, or his personal representative, in any court having jurisdiction of the subject matter. Any sheriff or collector who shall fail to report as herein required, shall be liable to indictment in the county of his residence, and fined not less than one hundred dollars nor more than five hundred dollars for each offense. (Acts 1896, Chap. 15. Approved March 17, 1896.)

Sec. 4151. Real estate sold if no personalty found — advertisement and sale — costs — affidavit. If there be no personal property that the sheriff or tax collector can distrain for taxes due, and the same shall not be paid by the first day of July, the sheriff or tax collector shall sell for cash any real estate belonging to or listed by such delinquent taxpayer, or so much thereof as will pay the taxes due and his commission, in the same manner that lands are sold under execution, except that the land shall not be valued or levied on, and shall be advertised by posting for fifteen days before the sale a written or printed notice at the court-house door, and by publication once a week for four weeks prior to the day of sale in a newspaper of general circulation, if there be one in the county. If not, then by printed hand bills posted, for fifteen days before the sale, at the court-house door, and in three or more conspicuous places in the tax district, and he shall, not less than fifteen days before the sale, mail to the delinquent a postal card, addressed to his place of residence or place of business, if such can be ascertained, notifying him of the time and place of the sale, and, in order to cover the cost of such advertisement and notification, the sheriff shall have one dollar and fifty cents for each person whose property is

advertised, to be paid by the delinquent, but in no event to be paid by the State. Provided, however, no levy or sale of real estate shall be valid, and no fees for making same, or credit for taxes in sales of same, shall be allowed sheriffs, until said sheriffs shall have made affidavit in writing and filed same with clerk of county court of county in which such lands are situated, showing that the persons from whom taxes are due and whose real estate is to be sold have no personal estate out of which said taxes can be made. And such affidavit shall be certified to the auditor, who shall in no case allow credit to sheriff for taxes on land sold and bought in for the State of Kentucky, until after such affidavit has been so certified to him. (Acts 1897, Chap. 11. Approved May 12, 1897.)

SECTION HELD VOID.

Sec. 4215. (Held void in part in *Com. v. Petty*, 96 Ky. 452.)

CONCERNING THE TAXATION OF CORPORATE FRANCHISES BY CITIES OF
THE FIRST AND SECOND CLASS.

(*Acts 1898, Chap. 38. Approved March 19, 1898.*)

Sec. 1. What companies to be assessed by cities for franchise taxes. That the franchise of every incorporated bank, trust company, guarantee or security company, gas, water, ferry, bridge, street railway, express, electric light, electric power, telegraph, press dispatch, telephone, turnpike, palace car, dining car, sleeping car, and chair car company and every other like company, corporation or association, having or exercising any special or exclusive privilege or franchise, not allowed by law to natural persons, or performing any public service, shall hereafter be valued and assessed for city taxes, in the manner hereinafter prescribed, by the city assessor in cities of the first and second class, wherein such franchise is exercised, to the extent and in the proportion the same is therein exercised. Provided, however, that no assessment for city taxes shall be made by any assessor or board of valuation and assessment of the franchise of any private business, mercantile, or manufacturing corporation, whose property is not devoted to a public use.

Sec. 2. Annual reports. In order to determine the value of the franchises mentioned or referred to in the next preceding section, the corporations, companies, and associations, therein mentioned or referred to, shall each annually, between September first and October first, make and deliver to the assessor of cities of the first and second class, wherein its franchise is exercised, a statement verified by its president, cashier, secretary, treasurer, manager, or other chief officer or agent, in such form as the city assessor may prescribe, showing the following facts, viz: The name and principal place of business of the corporation, company or association; the kind of business engaged in; the amount of capital stock, preferred and common; the number of shares of each; the amount of stock paid up; the par and real value thereof; the highest price at which such stock was sold

at a *bona fide* sale within twelve months next before the first day of September of the year in which the statement is required to be made; the amount of surplus fund and individual profits, and the value of all other assets; the total amount of indebtedness as principal; the amount of gross or net earnings or income, including interest on investments, and incomes from all other sources for twelve months next preceding the first day of September of the year in which the statement is required; the amount and kind of tangible property, and where situated, assessed, or liable to assessment, and the fair cash value thereof, estimated at the price it would bring at a fair voluntary sale; and such other facts as the city assessor may require.

Sec. 3. Additional facts to be reported — when. Where the line or lines of any such corporation, company, or association extend beyond the limits of the city, the statement shall, in addition to the other facts hereinafter required, show the length of the entire lines operated, owned, leased, or controlled in the city, and the entire lines operated, owned, leased, or controlled elsewhere. If the corporation, company, or association operates and conducts its business in other States as well as in this State, the statement shall show the following facts, in addition to the facts hereinafter required: The gross and net income or earnings received in the city, and out of the city on business done in the city, and the entire gross receipts of the corporation, company, or association, in the city and elsewhere, during the twelve months next before the first day of September of the year in which the assessment is required to be made. In cases where any of the facts above required are impossible to be answered correctly, or will not afford any valuable information in determining the value of the franchise to be taxed, the city assessor may excuse the officer from answering such questions; provided, that the city assessor, from said statement, and from such other evidence as he may have, if such corporation, company, or association be organized under the laws of this State, shall fix the value of the capital stock of the corporation, company, or association, as provided in the next succeeding section, and from the amount thus fixed shall deduct the assessed value of all tangible property assessed in this State or in the counties where situated. The remainder thus found shall be the value of its corporate franchise subject to taxation as aforesaid.

Sec. 4. Foreign corporations. If the corporation, company, or association be organized under the laws of any other State or government, except as provided in the next section, the city assessor shall fix the value of the capital stock, as hereinafter provided, and will determine from the amount of the gross receipts of such corporation, company, or association in the city and elsewhere, the proportion which the gross receipts in the city, within twelve months next before the first day of September of the year in which the assessment was made, bears to the entire gross receipts of the company; the same proportion of the value of the entire capital stock, less the assessed value of the tangible property assessed, or liable to assessment, shall be the correct value of the corporate franchise of such corporation, company, or association for taxation in the city.

Sec. 5. Railway and telegraph companies. If the corporation organized under the laws of this State or of some other State or government be a

street railway, telegraph, telephone, express, sleeping, dining, palace or chair car company, the lines of which extend beyond the limits of the city, the city assessor will fix the value of the capital stock, as hereinafter provided, and that proportion of the value of the capital stock, which the length of the lines operated, owned, leased or controlled in the city, bears to the total length of the lines owned, leased or controlled in the city and elsewhere, shall be the value of the corporate franchise of such corporation liable for taxation in the city; and such corporate franchise shall be liable to taxation in each city of the first class, through, or into which such lines pass, or are operated, in the same proportion that the length of the line in such city bears to the whole length of the lines elsewhere.

Sec. 6. Persons or associations, not corporations — when liable to taxation under this act. Whenever any person or association of persons, not being a corporation, nor having capital stock, shall, in this State, engage in the business of any of the corporations mentioned and made subject to assessment in the first section of this act, then the capital and property, or the certificates or other evidences of the rights or interests of the holders thereof in the business or capital and property employed therein, shall be deemed and treated as the capital stock of such person or association of persons for the purpose of taxation, and all other purposes under this act, in like manner as if such person or association of persons were a corporation.

Sec. 7. City assessor to notify corporations. It shall be the duty of the city assessor, immediately after fixing such value, to notify the corporations, companies, or associations of the fact; and all such corporations, companies, or associations shall have at least ten days from the time of receiving such notice to go before the board of equalization of the city and ask a change of the valuation, and may introduce evidence, and the chairman of said board is hereby authorized to summon and swear witnesses, and, after hearing such evidence, the said board may change the valuation as it may deem proper, and the action of said board shall be final.

Sec. 8. Tax bills to be made out. The city assessor shall make out and authenticate the tax bills on the assessments of franchises, as provided in this act, as well as on all assessments hereafter made by the board of valuation and assessment, which shall have the same effect as tax bills made out and authenticated by him on assessments of other property, and shall list the same with the tax receiver for collection, and said tax bills shall be due and payable at the same time, subject to the same discounts and penalties, and be collectible by distraint, garnishment and suit, as now provided by law with respect to other tax bills due the city.

Sec. 9. Failure to report — penalty. Any corporation, or officer thereof, willfully failing or refusing to make reports as required by this act, shall be deemed guilty of a misdemeanor, and for each offense shall be fined one hundred dollars, and five dollars for each day the same is not made after October first of each year, to be recovered by indictment or civil action, in the name of the city, in the circuit court of the county in which such city is situated.

Sec. 10. Individual stockholders exempt — when. The individual stockholders of the corporation, which is by this act required to report, and pay, city taxes upon the corporate franchise, shall not be required to list their shares in such corporation so long as the corporation pays the city taxes on the corporate property and franchises as herein provided.

Sec. 11. Receivers to make reports. Should any corporation required to make the report, as hereinbefore provided, be in the hands of, or under the control of a receiver, or other person, it shall be the duty of such receiver or other person to make the returns and valuations, as required by this act.

Sec. 12. Assessor's duty on failure of companies to report. Should any corporation, company, or association fail to make the report as required herein, on or before the first day of October of each year, the city assessor shall proceed to ascertain the facts and values as required by this act, in such manner and by such means as he deems proper, at the cost of the corporation, company, or association failing to make the report, and shall fix the values of the corporate franchise liable for taxation, as provided in this act, and the corporation, company, or association shall be taxed accordingly.

Sec. 13. Railroads. This act shall not apply to railroad or other corporations required by law to be assessed by the railroad commission.

CHAPTER 110. ROADS AND PASSWAYS.

SECTION AS AMENDED.

Sec. 4306. Fiscal courts to control roads — how worked. The fiscal court of each county shall have general charge and supervision of the public roads and bridges therein, and shall prescribe necessary rules and regulations for repairing and keeping the same in order, and for the proper management of all roads and bridges in said county under and subject to the provisions of this act. The public roads shall be maintained either by taxation or by hands allotted to work thereon, *or both*, in the discretion of the fiscal court of the respective counties as hereinafter provided. (Acts 1898, Chap. 37. Approved March 16, 1898.)

CHAPTER 113. SCHOOLS — COMMON.

AMENDED SECTIONS.

Section 4401.....p. 97.	Section 4443.....p. 100.
Section 4425.....p. 98.	Section 4445.....p. 102.
Section 4434..... p. 99.	Section 4464.....p. 102.
Section 4436.....p. 100.	Section 4481.....p. 103.

NEW ACTS UNDER THIS CHAPTER.

To Authorize School Districts to Refund Bonds ...p. 104.
To Regulate Repairing and Building of School Housesp. 105.
To Authorize Trustees to Dispose of County Sem- inary Propertyp. 106.
Concerning the Education of Childrenp. 106.

SECTIONS AS AMENDED.

Sec. 4401. Election and term of office—exception in cities of first class. The county superintendent shall be elected by the qualified voters of each county at the November election in one thousand eight hundred and ninety-three, shall enter upon the discharge of the duties of his office on the second Monday in August, one thousand eight hundred and ninety-four, and continue in office until the first Monday in January, one thousand eight hundred and ninety-eight, and until the election and qualification of his successor. And in one thousand eight hundred and ninety-seven, and every four years thereafter, there shall be, in each county, an election of a county superintendent, who shall hold his office four years from the first Monday in January following his election, or until the election and qualification of his successor. The county school superintendent shall be elected, and the vote canvassed and the result certified by the same officers and in the same manner as in the election of other county officers; and within ten days after the election the clerk of the county court shall forward a copy of the certificate of election to the superintendent of public instruction. All county superintendents in office at the time of the November election, one thousand eight hundred and ninety-three, shall continue in office until the second Monday in August, one thousand eight hundred and ninety-four, or until their successors are elected and qualified. In cases of controverted right to the office of county superintendent, the superintendent of public instruction shall have power to recognize a superintendent from among the contestants until the case has been settled. Provided, that in counties containing cities of the first or second class maintaining a system of public schools separate and distinct from the common schools of the county, the county superintendent shall reside in the portion of the county outside of such city or cities, and be elected by the qualified voters of said county residing outside of such city or cities. (Acts 1897, Chap. 16. Approved May 13, 1897.)

Sec. 4425. Certificates to teachers—subjects upon which examined—time of examination—questions by State board of examiners—examination of teachers—how conducted. County certificates shall be granted by the county board of examiners to persons not under eighteen years of age, upon written examinations upon the science and art of teaching, and upon the subjects embraced in the common school course, including, in connection with physiology and hygiene, the effects of alcoholic drinks and narcotics upon the human system, held in each county of the State, for white teachers, upon the third Friday and Saturday in May, June, July, and August, of each year, and for colored teachers upon the fourth Friday and Saturday of the same months, and no examinations shall be held at any other time whatever. No certificate shall be issued upon the days of examination, nor shall any answers be passed upon in the presence of any applicant. The State board of examiners shall carefully prepare four series of questions for white teachers, and an equal number for colored teachers, all of the same grade; shall inclose in a separate envelope such number of questions of each given series as the county superintendent shall make requisition for at least twenty days before the examination, with the name of the subject plainly written or printed across the seal thereof; shall inclose the several envelopes in a package, which they shall seal and forward by registered mail or by express to each county superintendent at least two weeks before the examination, designating the month for which the same shall be used. The county superintendent shall carefully preserve the said package of questions under seal until the hour of examination; and the seal of the said package shall then be examined by the other examiners and the applicants for certificates, and the package shall be opened in their presence. Immediately after examining the package of questions each of the county examiners shall, under his oath as examiner, upon blanks furnished for that purpose by the superintendent of public instruction, give a separate certificate, with signature attested by two reliable witnesses, that he had personally inspected the said package, and whether he had found the same intact, as provided herein, and forward the certificate to the superintendent of public instruction on the same day. The examiners shall allot a reasonable time for the examination upon each subject, taking the subjects in the order named in the section specifying the subjects embraced in the common school course, and shall collect the answers of all the applicants when the time allotted has expired, and, after the first subject is presented to the applicant, the said examiners shall not present any other subject, or open the envelope thereof, until they collect the answers of all applicants to all questions previously presented. The said examiners shall not examine any applicant until they are fully satisfied that said applicant possesses an unexceptional moral character, and is of the age herein prescribed; and in no event shall a certificate be granted to any person who indulges in drunkenness, profanity, gambling or licentiousness, or who, within the belief of the examiners, has had improper access to the examination questions. They shall, during the examination, exclude from the room all persons other than applicants, see that the appli-

cants are seated at a proper distance from each other, and shall see that no assistance is given or obtained by any applicant during the examination, and shall refuse to grant a certificate to any applicant who may either obtain or give such assistance. The county superintendent, and at least one of the examiners, shall be present and shall conduct all examinations and sign all certificates. The county superintendent and other examiners shall have full power, and it shall be their duty to make investigations as to the moral character of applicants; and the county superintendent shall also have full power to administer an oath as to improper use of questions, and as to other matters touching the qualifications of teachers under this act. (Acts 1896, Chap. 18. Approved March 17, 1896.)

Sec. 4434. Trustees—qualification—election—term of office—chairman of board—penalty—voters. Each school district shall be under the control of three trustees, who shall be of good moral character, at least twenty-one years of age, and for white schools able to read and write, and for colored schools able to read and write, if practicable; one of whom shall be elected each year for the term of three years to fill the place of the trustee going out of office. No person holding the office of trustee of any private school shall be eligible to hold the office of trustee of any common school. The vote in electing a trustee shall be taken *viva voce*, and the election shall be held at the school house, and, if no school house be in the district, at such convenient place as the trustee may select, from one o'clock until six in the afternoon on the first Saturday of *October*, each year, notice thereof having been posted by the trustees at three of the most public places in the district for ten days immediately preceding the day of the election. At this election the qualified voters of the district shall be the electors, and any widow having a child between six and twenty years of age, and any widow and spinster having a ward between the ages of six and twenty years, may also vote. The officers of the election shall be a judge and a clerk, who shall be residents of the district and be chosen by the voters at the opening of the polls. The judge of the election shall give the casting vote in case of a tie, provided he has not heretofore voted; and give a certificate of election to the person elected, signed by himself, and report the trustees thus elected, in writing, to the county superintendent of the county within five days after the day of election. In case of a tie, in which the judge has voted, then he shall certify the fact to the county superintendent, and the county superintendent shall appoint the trustee and give him a certificate, and the trustee so selected shall act until his successor is duly qualified. The trustee so selected shall hold office for three years from the first day of July succeeding his election and until his successor is duly elected or appointed and qualified. Any two of the trustees may constitute a quorum to transact the business pertaining to their office, at a meeting of which all shall have had reasonable notice. The trustee having the shortest term to serve shall be chairman of the board of trustees, whose duty it shall be to preside at all its meetings and to make the reports, and to perform all other such acts and duties as required by law of trustees, and in case of neglect or non-performance of

duty the one so remiss of duty shall be subject to like fines and penalties as imposed by law on trustees for neglect of duty or other violations of law. This law shall in no wise impair the term of office of trustees who have been duly elected or appointed under the present school law. (Acts 1898, Chap. 44. Approved March 17, 1898.)

NOTE.—Amendment inserted October in place of June.

Sec. 4436. Vacancy—how filled—power of superintendent. If, from a failure to qualify according to law, or from any other cause, there be a vacancy in the office of trustee, the county superintendent of the county shall, within ten days, or as soon thereafter as practicable, supply the same by appointment, in writing, and the trustee so appointed shall hold his office until the end of that term, and until his successor is elected or appointed and qualified. In case of controverted rights to the office of trustee, the county superintendent is empowered to recognize a trustee among the contestants until the dispute has been settled. If a trustee-elect shall fail to qualify before the county superintendent on or before *the first day of June* following his election, or file with him a certificate that he has qualified before another officer, it shall be within the discretion of the county superintendent to declare his place vacant, and to fill same by appointment. (Acts 1898, Chap. 44. Approved March 17, 1898.)

NOTE.—Words in italics inserted by amendment.

Sec. 4443. Tax—levy and collection—treasurer—appointment—duty and compensation—on failure to qualify, sheriff to collect. Whenever there shall be a tax levied in any common school district, it shall be the duty of the trustees to appoint a district treasurer, who shall hold his office four years, and until his successor is appointed and qualified, unless sooner removed by the county superintendent, which he may do for any failure on the part of said treasurer to discharge his duties as required by law. Before the treasurer shall enter upon the discharge of his duties, he shall execute bond in the name of the Commonwealth of Kentucky to the board of trustees, in a sum equal to double the amount of taxes to be collected, with one or more sufficient sureties, to be approved by the county judge or justice of the peace, for the faithful performance of his duties; which bond shall be renewed every year. The tax shall be levied on the property of the district as may be assessed and equalized for county taxation immediately preceding the levy by the trustees; and within ten days after said levy it shall be the duty of the district treasurer, with the assistance of the county superintendent, to make, or cause to be made, from the assessor's book, as equalized for county taxation, and the records of assessments of property as filed by the railroad commissioners or board of assessment in the office of the county clerk, a list of the names of all persons or corporations liable for such taxes, and the amount of property owned by each and liable therefor, and the total amount of taxes due from each, and shall file a copy of the list with the board of trustees. The treasurer shall collect all taxes levied for common school purposes on the property of the district. The holder of the legal title, and the holder of the equitable title, and the claimant or bailee in possession of the property on the fifteenth day of September of the year the assessment is made, shall be liable for the

taxes thereon; but as between themselves, it shall be the duty of the holder of the equitable title to list the property, and pay the taxes thereon, whether the property be in possession or not at the time of the payment. The board of trustees shall, within five days after such tax list shall have been delivered to the chairman, fix the time at which such taxes shall be paid to the district treasurer, which shall not be less than two nor more than four months from the time of making such order. The board shall cause written or printed notices of the amount of the levy, and the time and places in which the tax is required to be paid, to be posted in at least three public places in the district. It shall be the duty of all taxpayers to pay their taxes to the treasurer at the time and in the place designated in the notice. On failure of any such taxpayer to pay his taxes within such designated period, he shall, at the expiration thereof, be deemed delinquent, and a penalty of five percentum of the amount of the taxes due shall attach against each delinquent at the expiration of the period for receiving the taxes. It shall then be the treasurer's duty to collect such delinquent taxes, and levy on and sell property therefor, and make report thereof to the board of trustees. The treasurer shall collect the taxes within ninety days after receiving the list, by sale of property or otherwise. He shall have the same power that the sheriff now has, in the collection of State and county revenue, and proceed in the same manner and receive the same compensation as the sheriff was entitled to receive; and for a failure to perform his duty, and other duties mentioned in this section, he shall be liable on his bond; and all such delinquent lists as may now be in the hands of the sheriff in this Commonwealth uncollected, shall be returned to the district treasurer for collection under this amendment, and such as have been wholly or partly collected by sheriffs shall be accounted for as provided in the original act. The treasurer shall, in his annual report to the trustees and to the county superintendent, make an itemized statement of the amount levied, the purpose of such levy, the itemized amount collected, the amount disbursed, and the amount still on hand. In case of vacancy by resignation or removal, the treasurer shall make settlement with, and turn over all moneys to the county superintendent immediately following such resignation or removal. The treasurer and county superintendents holding money for districts shall pay out same on order of board of trustees for said districts. [In the event any one appointed to fill said office fails or refuses to qualify as such treasurer within thirty days after his appointment, or when the conditions are such in any school districts that the board of trustees deem it preferable for the sheriff to make collection of local taxes levied in the aid of said school district, instead of having a district treasurer for this purpose; it shall then be the duty of the sheriff of the county to collect such taxes upon the advice of the board of trustees that the taxes have been levied and the amount to collect; and the sheriff in such cases shall discharge all the duties pertaining to the office of treasurer as provided in this act.] (Acts 1898, Chap. 7. Approved March 9, 1898.)

NOTE.—Words in brackets added by amendment.

Sec. 4445. Teacher—employment and removal—private school in school house. The trustees in their corporate capacity, at a meeting called for that purpose, shall employ a qualified teacher, agree with him as to compensation, and for good cause, of which he be first notified in writing, remove him, subject to the approval of the county superintendent. The contract between the teacher and trustees shall not be entered into before the first of July of the calendar year in which the school is to begin. It shall expressly prescribe that its terms are subject to all the provisions of the common school laws, and shall be in writing, signed by the teacher and at least two of the trustees; whenever a teacher is entitled to a payment for having taught a common school, it shall be the duty of the trustees of the district to certify that the school has been legally taught for the period specified; no person shall be allowed to teach a private or other school in any district school house, unless he be of good moral character and have the consent of not less than two of the trustees of the district in which said school is to be taught. (Acts 1898, Chap. 44. Approved March 17, 1898.)

Sec. 4464. Election to establish—petition for—limit of tax—boundary. It shall be the duty of the county judge in each county of this Commonwealth, upon a written petition signed by at least ten legal voters, who are taxpayers in the justice's district, town or city of the fifth or sixth classes in his county, to make an order on his order book, at the next regular term of his court after he receives said petition, fixing the boundary of any proposed graded common school district, as agreed on by the county judge and the petitioners, and directing the sheriff or other officer, whose duty it may be to hold the election, to open a poll in said proposed graded common school district, at the next regular State, town or city election to be held therein, or on any other day fixed by said judge in said order, not in either case earlier than forty days from the date of said order, for the purpose of taking the sense of the legal white voters in said proposed graded common school district upon the proposition whether or not they will vote an annual tax, in any sum named in said order, not exceeding fifty cents on each one hundred dollars of property assessed in said proposed graded common school district, town or city, belonging to said white voters or corporations, or a poll tax in any sum named in said order, not exceeding one dollar and fifty cents per capita on each white male inhabitant over twenty-one years of age residing in said proposed graded common school district, or both an *ad valorem* and a poll tax, if so stated in the order, for the purpose of maintaining a graded common school in said proposed graded common school district, and for erecting, purchasing or repairing suitable buildings therefor if necessary. Provided, that the proposition to establish any graded common school district and school, as provided for in this section, is approved in writing on the petition to the county judge by a majority of the trustees of any common school district, included wholly or partly within the boundary of said proposed graded common school district, and approved in writing on said petition by the county superintendent of common schools; that no point on the boundary of any proposed graded common school district be more than two and one-

half miles from the site of its proposed school house, and that the location and site of said school house in said district are set out with exactness in said petition to the county judge. If at any time, two years having intervened since such graded common school district was established, it becomes desirable to change the boundary of the same, it shall be the duty of the county judge, upon a written petition signed by the person or persons desiring to be changed, who are, under this law, legal voters in the school district or districts in which they reside and who at the same time own the real estate sought to be transferred, to make an order on his order book at the next regular term of his court after receiving said petition, fixing the new boundary of the said graded or common school district as agreed on by the county judge and the petitioners. Such petition, to be valid, shall set out in full the new boundary of said district, which shall be recorded as in case of the original boundary, and a copy of same shall be furnished the board of education of said graded common school district; but no such change shall be made unless said petition be approved in writing by a majority of the board of education of each district concerned, as well as by the county superintendent. The provisions of this act, under like conditions and restrictions, touching change of boundary, shall apply equally to changes in boundary of districts heretofore established by local or special law, which incorporates any city, town or village as one district, as described in section seventy-one of an act to provide for an efficient system of common schools throughout the State, approved July sixth, eighteen hundred and ninety-three. (Acts 1897, Chap. 25. Approved May 26, 1897.)

Sec. 4481. Grounds and buildings to be provided — bonds — limit of sale of. Said board of trustees shall provide funds for purchasing suitable grounds and buildings, or for erecting or repairing suitable buildings, and for other expenses needful in conducting a good graded common school in their graded common school district; and to this end they may use such part of the proceeds of the said tax as they deem necessary, and it shall be the duty of said board of trustees, and if, in their opinion, it be necessary, and they are hereby authorized and empowered to order an election and submit to the voters of their respective graded common school districts the question whether or not the trustees thereof shall issue bonds of their respective graded common school districts, in any amount not exceeding the limit provided by sections one hundred and fifty-seven and one hundred and fifty-eight of the present Constitution of this State, for the purpose of providing suitable grounds, school buildings, furniture and apparatus for their respective graded common school districts. Provided, that due notice of said election shall be given by the trustees of their respective districts, by written or printed posters not less than one foot square, signed by the trustees of their respective districts, stating the time, place, and hours of said election, posted at not less than six public, conspicuous places in the district for ten days previous to the day of the election, and by one insertion thereof in the newspaper, if any, published in said district. The board shall appoint two judges, a clerk and a sheriff to hold said election, who shall be first duly sworn before acting, and shall

be housekeepers and taxpayers, resident in the district for which they are appointed, and one of the judges shall ask of each voter: "Are you in favor of the issue of bonds by the trustees of the graded common school of this district, for the purpose of providing suitable grounds, school buildings, furniture and apparatus for this district?" and the clerk shall record the answer, "Yes" or "No," as given by the voter. If two thirds of the voters voting at said election vote in favor of the issue of the bonds, then the trustees of such graded common school district may issue the bonds of said district for an amount not exceeding the constitutional limit, and in conformity with the Constitution of this State. And, for the purpose of meeting the interest on such bonds and creating a sinking fund for the payment of the principal thereof, the boards of trustees of their respective districts, where the issue of such bonds is voted, are authorized and empowered to levy annually a tax in addition to that already voted, which shall not increase the tax rate for school purposes in their respective districts to more than seventy-five cents on each one hundred dollars' worth of taxable property within this district. The said bonds may be of any denomination, in even hundreds, not exceeding one thousand dollars each, running not exceeding thirty years, and bearing interest at a rate not exceeding six per cent per annum, payable annually or semi-annually, as expressed in said bonds, payable to bearer, with interest coupons attached. They shall be signed by the president of said board of trustees, and attested by the secretary thereof, shall pass by delivery, and shall be redeemable at the option of said board. Said bonds shall be sold by the trustees, or their authorized agent, for the highest price obtainable, but not for less than their face par value and accrued interest, and the proceeds paid over to the treasurer and applied to the uses and purposes contemplated in this law. (Acts 1896, Chap. 4. Approved March 12, 1896.)

TO AUTHORIZE SCHOOL DISTRICTS TO REFUND BONDS.

(Acts 1898, Chap. 70. Received March 15, 1898.)

Sec. 1. Bonds—refunding of—issue of new. That it shall be lawful for any public school district or graded common school district in this State, which through or by their respective board of trustees, or otherwise, may have heretofore issued the bonds of such district and which bonds are still outstanding and bearing a high rate of interest, to refund said bonds, and in lieu of them to issue new bonds bearing interest at a rate not greater than five per cent per annum, payable semi-annually, with interest coupons attached, and to run not less than twenty years, said bonds and coupons to be made payable to bearer and to be serially numbered. The bonds to be signed by the chairman of the board of trustees of the district issuing the same and countersigned or attested by the secretary of said board, the coupon to be signed by the secretary. Said new bonds may be of any denomination to be determined by the board of trustees, but not to exceed one thousand dollars, and the said new bonds shall not in the aggre-

gate exceed the amount of the old bonds and accrued interest, and the actual expense of preparing and negotiating the new bonds.

Sec. 2. Manner of payment. The bonds to be issued under the provisions of this act shall be paid, principal and interest, in the manner and at the place provided by law for the payment of the old bonds in lieu of which the new bonds may be issued.

Sec. 3. Proceeds — how applied. Neither the new bonds to be issued under the authority of this act, nor any of the proceeds of the sale thereof, shall be used for any purpose other than the liquidation of said old bonds and the necessary expense of issuing and placing the bonds.

Sec. 4. Mode of sale or delivery. The board of trustees of the school district for the benefit of which said new bonds are authorized to be issued are empowered to sell the bonds to be issued as aforesaid for the best price obtainable, not less than par, and to use the proceeds in paying off and liquidating the old bonds, in lieu of which the new bonds are to be issued; or they may deliver the new bonds to the holders of the old ones in payment thereof on such terms as may be agreed upon.

Sec. 5. Pass by delivery. The bonds authorized by this act shall pass by delivery and shall entitle the holders thereof to collect and receive from the school district issuing the same the full amount of the bonds so held.

Sec. 6. To conform, in general, to the old bonds. The bonds to be issued under this act shall conform in general outlines and form as nearly as may be practicable to the old bonds in lieu of which they are to be issued.

Sec. 7. Board may take in in five years. The board of trustees of any public school district which may issue bonds under the provisions of this act, shall have the right at its option to take in any of said bonds at any time after five years from the date of same by paying the face value thereof and accrued interest up to the time of payment.

TO REGULATE REPAIRING AND BUILDING OF SCHOOL HOUSES.

(*Acts 1898, Chap. 12. Approved March 11, 1898.*)

Sec. 1. Superintendent, trustees, etc., not to have interest in building contract. That no county superintendent, board of education, or member thereof, or trustees of any sub-district, shall, directly or indirectly, become interested in any contract for building or repairing school houses in his or their district; and any county superintendent, member of such board, or any trustee violating this section, shall be guilty of a misdemeanor, and fined not less than one hundred dollars nor more than one thousand.

Sec. 2. Superintendent — plan of school house to be submitted to — duties of. That no school house shall be erected in any sub-district or county in this Commonwealth unless the plan thereof shall have been submitted to the county superintendent, and approved by him, and it is hereby made his duty to acquaint himself with the principles of school house architecture, and in all his plans for such structures, to have due regard to economy, convenience, health, and durability of structure.

TO AUTHORIZE TRUSTEES TO DISPOSE OF COUNTY SEMINARY PROPERTY.

(Acts 1896, Chap. 14. Approved March 17, 1896.)

Sec. 1. Sale of to common school district. That the trustees of any county seminary property, by a majority of their board, the county court consenting, are hereby authorized and empowered to sell, transfer, and convey by deed, the title in and to said seminary property, or otherwise dispose of it as to them may seem best, to the trustees of common school districts in which said seminary property is embraced, on such terms and conditions as may be agreed upon by both parties. Provided, when county seminary property shall be donated or appropriated all pupils of the county shall be permitted to attend such school at reduced tuition from what is ordinary, as shall be equitable, and make good to them their interests in said seminary property.

Sec. 2. Property held in trust. When any common school district embraces any school property owned or held in trust by trustees, said trustees are hereby authorized and empowered, by a majority of their board, to sell, transfer, and convey the title in and to said property to the trustees of said common school district at such price and on such terms as may be agreed upon by both parties.

CONCERNING THE EDUCATION OF CHILDREN.

(Acts 1896, Chap. 36. Became a law March 28, 1896.)

Sec. 1. Parents, guardians, etc., to send children to school — age of children — exceptions. That every parent, guardian or other person in the State of Kentucky having the control of any child or children between the ages of seven and fourteen years, shall be required to send such child or children, annually, at least eight weeks of which attendance shall be consecutive, to some public or private day or night school for children. Provided, however, that this act shall not apply in any case where the child has been or is being taught at home in such branches as are taught in public schools for a like period of time, and subject to the same examinations as other pupils of the district or city in which the child resides, or whose physical or mental condition renders his or her attendance impracticable, or who is excused by the trustees of the public school district, or the board of education of the city in which the parent, guardian or person having control resides, upon its being shown to their satisfaction that the parent, guardian or person having control was not able, by reason of poverty, to clothe such child properly, or that he or she has already acquired the ordinary branches required by law, or that there is no white school, in the case of white children, or colored school, in the case of colored children, taught within two miles by the nearest traveled road.

Sec. 2. Penalty. Any parent, guardian or other person failing to comply with the provisions of this act shall forfeit to the use of the schools in the city, town or common school district in which such child resides, a

sum not less than five nor more than twenty dollars for the first offense, nor less than ten nor more than fifty dollars for the second and every subsequent offense, and costs of suit.

Sec. 3. Duties of trustees and board of education. It shall be the duty of any school trustee or president of the board of education to inquire into all causes of complaint and neglect of duty prescribed in this act, and he shall notify in writing the parent, guardian or other person so offending, that such complaint has been made, and if the cause be not shown within five days, to at once proceed against the responsible persons as is hereby provided; and any school trustee or president of the board of education neglecting to undertake such prosecution in good faith, for such offense—within ten days after a written notice has been served on him by any taxpayer in said district or city, unless the person so complained of shall be excused by the district or city board, or board of education, for the reasons hereinbefore stated, shall forfeit to the public schools in the city, town or common school district in which said trustee or president of the board of education resides, a sum not less than ten nor more than fifty dollars.

Sec. 4. Penalty for false statement. Any person having control of a child, who, with intent to evade the provisions of this act, shall make a wilfully false statement concerning the age of such child, or the time such child has attended school, shall forfeit for each offense a sum not less than five nor more than twenty dollars for the use of public schools for such city, town or district.

Sec. 5. Fine or penalty — how recovered. Any fine or penalty mentioned in this act may be sued for and recovered before any court of record or justice of the peace of the proper county, in the name of the Commonwealth of Kentucky, for the use of the public schools of the city, town or district in which said child resides.

Sec. 6. Costs — when prosecution malicious. That upon the trial of any offense as charged herein, if upon such trial it shall be determined that such prosecution was malicious, then the costs in such case shall be adjudged against the complainant, and collected as fines in other cases.

Sec. 7. Colored children — separate schools. The conditions and provisions of this act shall apply to any parent, guardian or person having control of any colored child or children in like manner as in sections one, two, three, four, five, and six; but no white child shall be permitted to attend or become a pupil in any school for colored children, and no colored child shall be permitted to attend or become a pupil in any school for white children.

CHAPTER 121. STENOGRAPHER — OFFICIAL.

SECTION AS AMENDED.

Sec. 4637. Appointment — term of office. The judge of the circuit court of each judicial district of the Commonwealth, or the judge of any division of such court, may, in his discretion, appoint an official stenographic reporter for such court or division, who shall be skilled in his profession, and who shall hold office for a period of four years, or until his

successor is appointed and qualified, unless sooner removed at the pleasure of the judge of said court or division for incompetency, or for other cause shown as hereinafter provided. (Acts 1897, Chap. 22. Approved May 21, 1897.)

CHAPTER 129. TURNPIKE AND GRAVEL ROADS.

NEW ACTS UNDER THIS CHAPTER.

To Provide Free Turnpike and Gravel Roads.....	p. 108.
To Provide for Sale of State's Interest in Turn- pikes.....	p. 112.

AMENDED SECTIONS.

Section 4718.....	p. 118.
Section 4726.....	p. 113.

TO PROVIDE FREE TURNPIKE AND GRAVEL ROADS.

(Acts 1896, Chap. 27. Approved March 17, 1896.)

Sec. 1. Free turnpike and gravel roads — application for vote — election. That upon written application, directed to the county judge of any county in this Commonwealth, asking for a vote in said county upon the proposition to have free turnpike and gravel roads in said county, signed by a number of voters of said county, equal to fifteen per cent of the vote cast at the last preceding general or county election in said county, it shall be the duty of the judge of the county court, at the next regular term thereof after receiving said petition, to make an order in his book, directing an election to be held in said county at the next regular or county election in said county, that does not occur within sixty days of the date of entering the order, to take the sense of the qualified voters of said county upon the proposition to have free turnpike and gravel roads in said county, which order shall direct the sheriff or other officer of said court, who may be appointed to hold said election, to open a poll at each and all of the voting precincts in said county, for the purpose of taking the sense of the qualified voters on the proposition aforesaid.

Sec. 2. Publication of order — when vote taken. It shall be the duty of the county clerk to give to the sheriff of the county, or such other officer as may be appointed to hold said election, a certified copy of the order, as it appears on the order book, within five days after it is made; and it shall be the duty of the sheriff or other officer to have said order published in some weekly or daily paper published in the county for at least thirty days prior to the election, and also to advertise the same by written or printed handbills, posted in at least four conspicuous places in each voting precinct for the same length of time. All elections for this purpose being held at some regular election in November, the same officers that hold the regular elections shall hold this election, which shall, in all respects, be

held in accordance with the provisions of the general election laws of this State, the questions, "Are you in favor of free turnpike and gravel roads?" being printed on the ballot as provided for in the general election law, section one thousand four hundred and fifty-nine, Kentucky Statutes.

Sec. 8. Votes — to be counted — certificates — duties of county canvassing board. At the close of the polls the election officers in each precinct shall count votes for and against the proposition, and make certificates thereof, showing the number of votes cast for the proposition and the number cast against it, which certificates, each officer retaining a copy thereof, and all disputed ballots, if any, shall be returned to the county clerk with the other election returns. The county examining or canvassing board shall canvass the returns, at the same time and in the same way as the returns for the regular election are canvassed, and certify immediately upon the completion of the canvass the result, in writing, to the county judge, showing how many votes were cast for the proposition and how many against it in each precinct, and the total result in the county, each member of county board retaining a copy of said certificate. At the next regular term of the county court, after receiving the same, the county judge shall have said certificate spread upon his order book.

Sec. 4. Order — expense of. The county judge shall not make an order for election until the petitioners pay into court a sufficient amount of money to pay for the order, printing, advertising and other necessary expenses.

Sec. 5. How fiscal court may acquire turnpike roads — levy of tax. If it shall appear that a majority of all the votes cast for and against said proposition are in favor of said proposition, then the fiscal court may acquire, by gift, lease, purchase or contract, any or all the turnpike roads, or parts of such as lie within the county, on the best terms consistent with public interests, in the discretion of said court, and may provide for the construction of new turnpike or gravel roads when the public good demands it. Said fiscal court may levy a tax from year to year on all the estate of every kind assessed for State and county purposes, not to exceed in any year twenty-five cents on the one hundred dollars of taxable property, for the purpose of paying for and maintaining such roads as may be acquired under this act and keeping them in repairs.

Sec. 6. When made public roads — how repaired — toll houses and land. All turnpike and gravel roads thus acquired or constructed shall become public roads, and shall be maintained and kept in repair by and through the provisions of the fiscal court. Said court may provide for keeping them up as is directed and permitted under the general road law, or it may adopt other rules for the maintenance, repair and management of the same. But said roads shall be free of toll to the traveling public. And all toll houses, and the land occupied for the use thereof, or owned or held by any turnpike road company, which may be acquired under this act, shall pass with the possession or ownership of such road, to be held by the fiscal court for the use of such road, and may be leased or rented by said court, and the proceeds thereof shall be applied to the maintenance of the county roads acquired under this act. The fiscal court may either rent

or sell the toll houses and lots that may come into their possession, but the parties owning the land from which the toll lot came off of originally shall have the refusal of purchase.

Sec. 7. Title — how conveyed — vote of State and county stock. The directors of any turnpike or gravel road are hereby authorized and empowered, through their president, to convey to the fiscal court purchasing same the title to such road, and when so directed by a number of stockholders representing a majority of all the stock in said road, he shall make such conveyance. In any road in which the State has an interest the governor or his proxy shall be authorized to vote the stock of the State. In roads in which the county owns an interest, the county judge may appoint an agent to vote the stock of the county.

Sec. 8. Charter — how it shall terminate. When the entire turnpike purchased by a fiscal court lies wholly within the county by which the same is purchased, the transfer of title shall be made as provided in section seven, and thereupon the charter, franchises, and so forth, of any such turnpike or gravel road shall be at once dissolved and terminated; but when any portion of any turnpike, which lies in more than one county, is purchased as herein authorized, the title to such part so purchased shall be conveyed to the county purchasing it in the manner before recited, and such transfer shall in no wise affect the charter or privileges or franchises of any turnpike road company so selling such portion, as to the remainder of the turnpike of such company. But as to the part so sold the charter shall be and become terminated, and the company shall be at once released from any and all responsibility concerning such portion under its charter or the laws of the State.

Sec. 9. Bonds — vote on — how election conducted. The fiscal court shall have the power and authority to issue and sell bonds from time to time within the constitutional limitations for the purpose of purchasing and maintaining the roads so acquired or constructed under this act, said bonds to bear interest not to exceed six per cent per annum, with coupons attached, payable semi-annually; these bonds to be in denominations of not less than one hundred dollars or more than one thousand dollars, to run not more than thirty years, and to be redeemed within that time at the pleasure of the court, and to be sold at not less than par value. But before the bonds authorized under this act shall be issued, the fiscal court of the county shall by an order entered of record call an election to be held and direct a poll to be opened at the next county or regular election to be held in the county, which does not occur within sixty days from the date of the order calling said election. It shall be the duty of said fiscal court to direct the sheriff of the county to advertise said election and the object thereof for at least thirty days next before the day thereof in some newspaper having the largest circulation in the county, and also by printed handbills posted up at not less than four public places in each voting precinct in the county, and at the court-house door. All legal voters in said county shall be privileged to vote at said election. The same officers that hold the regular election shall hold this election, which shall in all respects be held in accordance with the general election laws of this State, the question: "Are you

in favor of issuing bonds for the purchase and maintenance of the turnpike roads of this county free of toll to the traveling public?" being printed on the ballot as provided for in the general election law, section one thousand four hundred and fifty-nine, Kentucky Statutes. If two thirds of the legal voters voting on said proposition vote in favor of the proposition, then said fiscal court shall issue bonds as provided herein. The question of issuing bonds may be submitted to the voters at the same time that the question to have free turnpike and gravel roads is submitted, or it may be submitted at another time.

Sec. 10. Tax — rate of — how applied. If bonds are sold to enable the fiscal court to purchase and construct roads, the fiscal court shall levy a tax on all taxable property subject to county and State taxation, not to exceed twenty-five cents on every one hundred dollars' worth of taxable property, at its assessed valuation, which shall be collected as other county taxation and appropriated as follows: First, to the payment of the interest on the bonds; second, to keep said roads in repair, and third, the balance to be placed to the credit of a sinking fund for the redemption of said bonds.

Sec. 11. Where vote has been taken. Any or all counties in this Commonwealth, that have heretofore taken a vote on the question of free turnpikes and gravel roads, may accept the condition of this act, and the fiscal courts shall be fully empowered to carry its provisions into execution, if a majority of the voters in the respective counties voting on said proposition at an election held for that purpose, voted in favor of free turnpikes, without a resubmission of the question.

Sec. 12. Commissioners to value road — appointment of. At any time after a majority of the votes cast at an election held for that purpose in any county, have voted for free turnpikes and gravel roads and the fiscal court of said county, being unable to enter into a contract with the owner or owners of any turnpike or gravel road, or any part thereof, lying in said county, it shall be the duty of the fiscal court thereof to file in the county court clerk's office of said county a statement to the effect that it has been unable to enter into a contract to purchase said road, with the owner or owners thereof, with a description of the turnpike road desired to be obtained, and thereupon the county judge shall appoint three impartial housekeepers of the county, who are land owners, one of whom may be recommended by the managers of the road, whose duty it shall be to assess the value the owner or owners thereof may be entitled to receive for the said turnpike or gravel road so taken.

Sec. 13. Commissioners — duties of. It shall be the duty of said commissioners to view the road to be taken, and require the owner or owners thereof to produce the books or other evidences, the receipts and expenditures on the road or part of the road to be sold, amount of net earnings for said turnpike road company for each year for the past six years, and they shall hear any other evidence conducing to show the value of the property sought to be taken, and shall award to the owner or owners thereof the actual value of the property taken in said county. They shall return a report, in writing, to the office of the clerk of said court, stating their award, and shall describe the roadbed condemned, and give the names

of the owner or owners thereof, and whether non-residents of the State, infants, of unsound mind, or married women. Said commissioners shall be sworn to faithfully perform their duties under this law.

Sec. 14. Court may summon owners of road. Upon the filing of the report of commissioners in the county court clerk's office, as required by the above section, the county court clerk shall issue a process against the owner or owners of said turnpike or gravel roads, upon the application of the fiscal court, to show cause why the report should not be confirmed, and shall make such orders as to non-residents and persons under disability as required by the Civil Code of Practice, against them in the circuit court.

Sec. 15. Report of commissioners — proceedings may be abandoned. At the first regular term of the county court after the owner shall have been summoned the length of time prescribed by the Civil Code of Practice, before answer is required, it shall be the duty of the court to examine said report, and if it shall appear to be in conformity with this law, and to the extent that no exceptions have been filed thereto by either party, it shall confirm said report as against the owners not excepting. But the fiscal court of said county shall have the right to abandon the condemnation proceedings at any time it may desire, but it must pay the cost of said proceedings. The trial upon exceptions to the report by either party, and the appeal from said exceptions, shall be the same as allowed by law for condemnation for railroad purposes, as provided in sections eight hundred and thirty-nine and eight hundred and forty of the Kentucky Statutes.

Sec. 16. Local and special acts not repealed. This act shall not repeal any local act or acts for any county or counties in this Commonwealth, which have been heretofore passed, in aid of free turnpikes, but shall be an addition thereto. Provided, that nothing in this act shall repeal or in any way affect the validity of any special act under which any county has voted for free turnpikes and now proceeding in the purchase of turnpike roads for the purpose of making them free to the traveling public.

NOTE.—This Act was construed in *Maysville and L. T. R. Co. v. Wiggins*, October 22, 1896, 47 S. W. 434.

TO PROVIDE FOR SALE OF STATE'S INTEREST IN TURNPIKES.

(Acts 1896, Chap. 6. Approved March 16, 1896.)

Sec. 1. State's interest in turnpikes — how sold. That the commissioners of the sinking fund be, and they are hereby, enabled and empowered to sell and transfer the State stock in any turnpike road in the Commonwealth, at public or private sale, and that the proceeds of the sale of any of said stock shall be invested by the commissioners for the benefit of the sinking fund, and shall remain as part thereof.

Sec. 2. Sale of road per mile. That whenever, in the judgment of the commissioners, a sale per mile of any of said turnpike roads will be for the best interest of the Commonwealth, they may unite with individual stockholders, in any road company in which the State owns stock, in making a sale of any road or part of a road by the mile. Provided, that when only part of a road is sold it shall include all of the road lying in any one county.

Sec. 3. Statement of revenues of road to be furnished to commissioners. In order to enable the commissioners to act intelligently in fixing the value of any turnpike road, or a part thereof, the president and directors of the road company shall, on demand of the commissioners, furnish to them a statement of the annual collections and expenditures upon the road, or part of the road, to be valued, which statement shall embrace the annual gate receipts and costs of managing and repairing the road for at least three years prior to the time of the demand therefor, together with the annual dividends of the company for said time, and from these and any other data and evidence of value which they can obtain, the commissioners shall fix the value per mile of the road, or part of the road, to be sold.

Sec. 4. How conveyed. Whenever a sale of any road, or part thereof, shall have been made by the commissioners and individual stockholders, the commissioners shall, by an order upon their record book, empower the president of the road company to convey the same to the purchaser or purchasers thereof, and the board of directors shall, by an order upon their record books, empower their president to convey the interest of the individual stockholders, which he shall proceed to do by deed in the name of the company, under its corporate seal, and said deed shall convey the fee-simple title to the property which he is authorized to convey.

SECTIONS AS AMENDED.

Sec. 4718. Officers of roads to make settlements—penalty. The president and managers of all toll bridges, turnpike, gravel and plank road companies shall, within the month of July in each year, make a full settlement with the county court in each county in which the same is located, showing an itemized account of the entire earnings of said toll bridge, turnpike, gravel or plank road company, and said settlement shall be sworn to by the officer making the same; and they shall also make or declare a dividend of the profits of such bridge, turnpike or road company, if any, and pay to the stockholders, when called for, the amount due them, and into the treasury of the State or county the amount due to the State or county within twenty days thereafter. Provided, that when the State or a county owns stock in any of said roads, the settlement herein required shall be made only in the county or counties owning stock, and the indictment for failure to make said settlement shall be found in one of said counties. It shall be the duty of the county attorney to see that said settlement is made or dividend is declared; and upon the failure of any of the companies herein enumerated to comply with the requirements of this section, they, or any of them, shall, upon indictment in the circuit court of the county, be fined not less than twenty-five dollars, nor more than one hundred dollars for each offense. (Acts 1896, Chap. 16. Approved March 17, 1896.)

Sec. 4726. Ministers, school children, funeral processions, free on roads. The managers of any turnpike, gravel or plank road shall permit ministers of the gospel to travel on the road without paying toll when on

ministerial duty, and shall charge no toll against scholars going to or from school, or to persons who are going to or from any place of religious worship, and funeral processions going to or from any place of burial; but if any other person than scholars going to or returning from school and the driver shall occupy a vehicle, full toll shall be charged and collected for such vehicle. (Acts 1896, Chap. 23. Approved March 17, 1896.)

CHAPTER 134. WEIGHTS AND MEASURES.

HEMP.

(Acts 1898, Chap. 41. Approved March 16, 1898.)

Sec. 1. Hemp—weights of. That the hundredweight of hemp shall consist of one hundred pounds avoirdupois, and two thousand such pounds shall constitute a ton, and all contracts hereafter made shall be so construed.

Sec. 2. Penalty. Any person violating this act shall be fined in a sum of not less than one hundred dollars nor more than five hundred dollars for each offense.

NOTE.—See Sec. 4820, Ky. Statutes.

h 11 Acts 10-Chap-90-Pg 265-

AMENDMENTS TO THE CODES OF PRACTICE. (1895.)

CIVIL CODE.

AMENDED SECTIONS.

Section 65	p. 115.
Section 273	p. 115.
Section 606	p. 116.

SECTIONS AS AMENDED.

Sec. 65. Decedents and assigned estates—to settle—transfer of records in action to enforce mortgage or other liens on real estate. An action to settle the estate of a deceased person, of a person, corporation or company assigned for the benefit of creditors of any estate in the hands of a receiver of court, must be brought in the county in which such personal representative, assignee or receiver qualified, and for the purpose of a settlement of such estates, such personal representative, assignee, or receiver shall have the same power to sue as had the deceased person, the assignor, or owner of the estate in such receiver's hands, but any action brought by such personal representative, assignee or receiver, for the recovery of or sale of under a mortgage, deed of trust or other lien, or charges upon, or injury to real estate or an estate or interest therein, must be brought in the county in which such real estate is situated, and not elsewhere, and that in any suit heretofore brought and which is now pending in any county in this State, for the settlement of the estate of a deceased person, or of a person, corporation or company assigned for the benefit of creditors, and in which the enforcement of mortgaged liens, or other liens, upon real estate, or for the recovery of real estate or an interest therein, the judge of said court in which such action is pending, shall by proper orders transfer, for hearing and trial, that part of the record necessary for the enforcement of such liens or the recovery of such real estate to the circuit court of the county in which such land or a part thereof is situated, and such shall be docketed and stand for trial in the court to which same is transferred under this act, as other causes of like nature, as if originally brought in such court. All laws and parts of laws in conflict with this act are hereby repealed. (Acts 1898, Chap. 59. Received March 11, 1898.)

Sec. 273. Officers who may grant. The injunction may be granted at the commencement of the action, or at any time before judgment, by the court, or by any circuit judge, or by the clerk of the court, or the county judge if the judge of the court be absent from the county, or by two jus-

tices of the peace, if the judge and the clerk of the court and the county judge be absent from the county. No injunction shall be granted by any of the foregoing officers, unless it appear from the affidavit of the party applying therefor that it has not been refused by the court; nor shall such injunction be granted by a clerk or county judge or justice unless it appear from such affidavit that it has not been refused by the court or any circuit judge. No injunction or temporary restraining order shall be granted until after the petition seeking the injunction shall be filed. No injunction or temporary restraining order shall be granted by any circuit or other judge of similar jurisdiction in any action pending outside of the circuit or county wherein such judge shall preside, unless it shall appear from the affidavit of the plaintiff that there is no circuit or other judge of similar jurisdiction present, at the time, in the judicial district where the action is pending. (Acts 1898, Chap. 6. Approved March 9, 1898.)

Sec. 606. Competency of witnesses. (This section was repealed by acts 1898, and in lieu thereof the following sections enacted.)

1. Husband and wife — exceptions. Neither a husband nor his wife shall testify, while the marriage exists or afterwards, concerning any communication between them during marriage. Nor shall either of them testify against the other. Nor shall either of them testify for the other, except in an action for lost baggage or its value against a common carrier, an innkeeper, or a wrong-doer, and in such action either or both of them may testify; and, except in actions which might have been brought by or against the wife, if she had been unmarried, and in such actions either, but not both, of them may testify. And except that when a husband or a wife is acting as agent for his or her consort, either of them may testify as to any matter connected with such an agency.

2. Infant — lunatic or dead person — party against. Subject to the provisions of sub-section seven of this section, no person shall testify for himself concerning any verbal statement of or any transaction with, or any act done or omitted to be done by an infant under fourteen years of age, or by one who is of unsound mind or dead when the testimony is offered to be given, except for the purpose and to the extent of affecting one who is living, and who, when over fourteen years of age and of sound mind, heard such statement, or was present when such transaction took place, or when such act was done or omitted, unless: (a) the infant or his guardian shall have testified against such person, with reference to such statement, transaction or act; or (b) that the person of unsound mind shall, when of sound mind, have testified against such person with reference thereto; or (c) the decedent, or a representative of, or some one interested in his estate, shall have testified against such person with reference thereto; or (d) an agent of the decedent or person of unsound mind, with reference to such act or transaction, shall have testified against such person, with reference thereto, or be living when such person offers to testify with reference thereto.

3. Person can not testify after introducing other testimony. No person shall testify for himself, in chief, in an ordinary action, after intro-

ducing other testimony for himself, in chief; nor, in an equitable action, after taking other testimony for himself, in chief.

4. Attorney, clergymen, and priests as to communications and confessions. No attorney shall testify concerning a communication made to him, in his professional character, by his client, or his advice thereon, without the client's consent; nor shall a clergyman or priest testify concerning any confession made to him in his professional character in the court of discipline enjoined by the church to which he belongs, without the consent of the person confessing.

5. Party testifying as to dead person or lunatic. If the right of a person to testify for himself be founded upon the fact that one who is dead or of unsound mind has testified against him, the testimony of such person shall be confined to the facts or transaction to which the adverse testimony related.

6. As to original entries. A person may testify for himself as to the correctness of original entries made by him against persons who are under no disability other than infancy in an accounting according to the usual course of business, though the person against whom they are made may have died or have become of unsound mind; but no person shall testify for himself, concerning entries in a book, or the contents or purport of any writing, under the control of himself, or of himself and others jointly, if he refuse or fail to produce such book or writing, and to make it subject to the order of the court for the purposes of the action, if required to do so by the party against whom he offers to testify.

7. Assignor of claim incompetent. The assignment of a claim by a person who is incompetent to testify for himself, shall not make him competent to testify for another.

8. Adverse party may be examined as other witnesses—his testimony may be rebutted. A party may be examined as if under cross-examination at the instance of the adverse party, either orally or by deposition as any other witnesses; but the party calling for such examination shall not be concluded thereby, but may rebut it by counter testimony.

9. Affidavits—attesting witnesses—provisions of this section do not apply to. None of the preceding provisions of this section apply to affidavits for provisional remedies, or to affidavits of claimants against the estate of deceased or insolvent persons, or affect the competency of witnesses of instruments which are required by law to be attested.

10. Repealing clause. All laws in conflict herewith are hereby repealed.

(*Acts 1898, Chap. 1. Approved February 23, 1898.*)

INDEX.

	PAGE		PAGE
ABUSIVE LANGUAGE.		ASYLUMS FOR INSANE.	
Use of toward public speaker.....	35	(See Charitable Institutions.)	
ACTIONS.		AUDITOR.	
Fraudulent conveyance—to set aside	55	A. & M. College—duty in regard to..	1
ADULTERATED FOOD.		Charitable Institutions—duty in re-	
(See Crimes and Punishments.)		gard to (see Charitable Institutions).	
A. & M. COLLEGE.		Claims upon the Treasury—duties in	
Appropriation for	1	regard to	14
Experiment Station of—analysis of		Register of Land Office consolidated	
food products	36	with office of.....	90
fertilizers	52	Warrants of to bear interest	14
fees and fines.....	37		
nurseries—inspection of... ..	56		
ANIMALS.		BANKS.	
Glandered animal to be killed.....	2	(See Corporations, Private.)	
compensation for.....	2	BLIND ASYLUM.	
penalty for refusal.....	2	(See Charitable Institutions.)	
APPRENTICE.		BOARDING HOUSES.	
Inmates of Houses of Reform may be		(See Innkeepers.)	
apprenticed—how recalled	10	BONDS.	
APPROPRIATIONS.		Of State for A. & M. College.....	1
For A. & M. College.....	1	for State Normal School	1
Eastern Kentucky Asylum.....	4	Charitable Institutions.....	6
Houses of Reform.....	7, 18	CHARITABLE INSTITUTIONS.	
Lakeland Asylum.....	6	General Provisions.	
ARREST.		Annual appropriation for — how	
Of escaped inmate of Houses of Re-		paid—how expended.....	8
form	10, 12	Bonds to pay indebtedness of.....	6
ASSIGNMENTS—VOLUNTARY.		Borrowing money by legalized.....	7
Action in circuit court to settle.....	8	Commissioners to report.....	8
Advertisement of sale.....	2	No liability on State beyond amount	
Personal Property—how sold.....	2, 3	appropriated	8
Real Property—how sold.....	2, 3	Repairs and expenses of.....	3
Report of sale	2, 3	Salaries of officers and employees.....	8
Title conveyed by assignee.....	2, 3	Superintendent to report.....	3
		Woman Physician in Insane Asylums	4
		Blind Asylum.	
		Bonds to pay debts of.....	7

CHARITABLE INSTITUTIONS—Cont'd.	PAGE	CHILDREN.	PAGE
Eastern Kentucky Asylum.		Act concerning education of..... 106	
Appropriation for.....	4	Colored children—separate schools	
Bids for labor and material.....	5	for..... 107	
Bonds to pay debts of.....	7	Fines for violation of act—how re-	
Payment for labor and material.....	5	covered 107	
Report to Auditor.....	5	Guardians—duties of..... 106	
Unexpended balance—disposition of..	5	Parents—duties of..... 106	
Feeble-Minded Institute.		Penalty for false statements concern-	
Bonds to pay debts of.....	7	ing 107	
Houses of Reform.		Trustees—duties of..... 107	
Act to establish.....	7	CIRCUIT JUDGE.	
Appropriation for.....7, 18	7, 18	Guards—duties as to..... 88	
Appointment of trustees for.....	8	Railroads—duties as to.....19, 20	
Arrest of escaped inmates10, 12	10, 12	CITIES OF THE FIRST CLASS.	
Buildings—plan for.....	9	General Provisions.	
Buildings—Governor to give notice		Action against city—limitation..... 71	
when ready for use.....	11	Coroner may employ stenographer... 16	
Inmates—apprenticed.....	10	Education.	
commitment.....	11	Census—when and how taken..... 73	
discharge.....	12	Enumerators—duties of 74	
duration of confinement.....	12	Public library—acquired..... 82	
enticing away and concealing—		annual report..... 82	
penalty for.....	12	tax levy for..... 82	
instruction and employment... ..	12	Report to superintendent of public	
recalled 10	10	instruction..... 73	
separation of races.....	13	Taxation—districts for..... 73	
Location of.....	8	Mayor.	
Objects of.....	9	Police matron—to appoint..... 83	
Removal of convict to.....	12	Public library—duties as to..... 82	
Titles deposited with Sec. of State....	9	Station house for female prisoners—to	
Trustees—a corporation.....	8	designate 83	
meetings of.....	10	Police Court.	
reports 13	13	Evidence in 72	
rules of discipline.....8, 10	8, 10	Jurisdiction as examining court..... 72	
Visitation and inspection.....	10	Stenographer of..... 73	
Institute for Deaf Mutes.		Police Matron.	
Bonds to pay debts of.....	7	Appointment—assistants..... 83	
Lakeland Asylum.		Attend courts—duty..... 84	
Appropriation for.....	6	Notice to..... 84	
Bonds to pay debts of.....	7	Salary—term of office84, 85	
Purchase of land for.....	6	Search of prisoners..... 85	
Western Kentucky Asylum.			
Bonds to pay debts of.....	7		

CITIES OF THE FIRST CLASS—Cont'd. PAGE**Public Ways.**

Original construction—cost of.....	72
Square defined.....	72
Territory not defined into squares.....	72
Wells and water plugs—cost of.....	72

Revenue and Taxation.

(See Revenue and Taxation.)

Actions to recover taxes.....	75
Board of Equalization—election.....	75
compensation—powers—removal—	
session	75
Decedent's estate—affidavit and de-	
mand not necessary.....	75
Excess or deficiency—provision for...	75
Expenditures—limit of.....	75
Franchise tax—companies liable for..	98
annual reports	98
assessment of franchise.....	98
city assessor—duty of.....	94
notice by—when companies fail to	
report	96
tax bills of	95
foreign corporations	94
individual stockholders exempt....	96
lines extending beyond city limits..	95
persons not corporations—when	
liable.....	95
railroads assessed by railroad com-	
mission.....	96
receiver to report.....	96
reports—failure—penalty	95
value—how determined.....	94
Ordinance fixing tax rate.....	74
Levy to be subdivided	74
Station Houses for Female Pris-	
oners.	
Accommodations	84
Jail may be designated.....	88
Mayor to designate	88
Police station—meaning of term.....	85
Search of prisoners	85
Woman—meaning of term.....	85

CITIES OF THE SECOND CLASS.**City Clerk.**

Attestation of official acts	77
Bond of	78
Custody of records	77

CITIES OF THE SECOND CLASS—Cont'd. PAGE**Commissioners of Water Works.**

Appointment—bond—duties	78
Number—powers—qualifications	78
Treasurer	78

Franchise Tax.

Franchise Tax—companies liable for..	98
annual reports	98
assessment of franchise	93
city assessor—duty of	94
notice by—when companies fail to	
report	96
tax bills of.....	95
foreign corporations	94
individual stockholders exempt....	96
lines extending beyond city limits..	95
persons not corporations—when	
liable	95
railroads assessed by railroad com-	
mission	96
receiver to report.....	96
reports—failure—penalty	95
value—how determined	94

Mayor.

Official newspaper—selection of.....	77
Ordinance—publication of.....	77

Public Library.

Control of.....	79
-----------------	----

Public Schools.

Approximate expenses for ensuing	
year	79
Expenditures—limit of	79
Expenses—report of	79
Taxes for—levy and collection of	79

Turnpikes.

May be acquired, proceedings	82
------------------------------------	----

CITIES OF THE FOURTH CLASS.

Adding or striking off territory.....	80
Boundary	80
Circuit Court—jurisdiction of as to	
petition of taxpayers	80

CITIES OF THE FIFTH CLASS.

Police Judge—fees—bond.....	81
-----------------------------	----

	PAGE		PAGE
CLAIMS UPON THE TREASURY.		CORPORATIONS—PRIVATE—Cont'd.	
Fees of witnesses in causes transferred to U. S. Courts.....	15	Insolvent Railroad and Bridge Companies.	
Warrants—to bear interest.....	14	Act to provide for reorganization of..	19
cancellation and re-issue	14	Claims prior to passage of Act.....	20
order of payment	14	Plan of reorganization.....	19
no interest on after called in.....	15	adoption of	19
provisions do not apply to certain funds	15	creditors not objecting to deemed assenting	20
warrant for interest	15	notice of.....	19
COAL.		objections to	19
(See Convict-made Goods and Wares.)		submitted to Court	19
CODE OF PRACTICE.		Property in another State	21
Amended	115, 116, 117	Sale of property if no plan proposed..	20
CONSCIENCE—LIBERTY OF.		Securities—what are.....	20
Inmates of House of Reform.....	12	holders of—rights of.....	20
CONSTITUTION OF KENTUCKY.		surrender of	20
Amendment of. (See Elections.)		Railroads.	
To give effect to Sec. 199.....	21	Acts requiring running of one passenger train each day	18
CONTRACTORS.		each day a separate offense	18
Liens of. (See Liens.)		penalties	18
CONVICTS.		Lien of laborers, etc.....	61
Removal of infant from penitentiary..	12	Reorganization of insolvent companies	19
CONVICT-MADE GOODS AND WARES.		Real Estate Title Insurance Companies.	
Cars and vehicles conveying convicted mined coal to be labeled	16	Capital stock—amount of.....	26
Penalty for violation of Act.....	16	Guarantee fund—amount and application of.....	26
CORONER.		Telegraph Companies.	
In cities of first class may employ stenographer.....	16	Act authorizing construction and maintenance of lines.....	21
duties and salaries of stenographer..	16	Condemnation proceedings	21
CORPORATIONS—PRIVATE.		appeal.....	23
Banks and Trust Companies.		fees of officers of court	24
Corporations to do both a bank and trust company business.....	17	jury, proof, and verdict	22
capital stock	17	judgment	22
conduct of business	17	mortgagees of condemned property..	23
government of	18	Contracts with railroad companies....	21
Bridge Companies.		Equal facilities—to furnish.....	25
Reorganization of insolvent	19	Lines heretofore constructed	23
Foreign News Corporations.		Trust Companies.	
Discrimination not to be made in vending news.....	24	Capital stock—amount of	25
penalty.....	24	increase or decrease—statement of to be filed	25
Forfeiture of charter.....	25	Corporators—number necessary.....	25

COUNTIES.

PAGE

Corporations to do both a banking and trust business in certain	17
Jail physician in certain.....	27
how elected—term of office.....	27
duties and salary	27
Official Indexer of Records—appointed.....	28
assistants and salaries of.....	28
duties—qualifications and removal..	28
salary—term of office.....	28

COUNTY JUDGE.

Glandered animals—duties as to.....	2
Graded Common Schools, duties as to	102
Guards—duties as to.....	38
Jail physician—to appoint.....	27
Mobs—duties as to.....	34
Pharmacy—duties as to	68

COURTS OF JUSTICE.**Court of Appeals.**

Assistants for judges of.....	29
compensation.....	29
term of office—removal.....	29
Fees of officers.....	51
Jurisdiction in civil cases.....	80
divorce and contempt cases.....	80

Circuit Courts.

Districts — boundaries changed — eighth	30
twelfth.....	30
thirteenth.....	30
twenty-third	31
twenty-fourth	31
twenty-sixth	31
Jurors—how selected.....	58

Quarterly Courts.

County judge to preside.....	31
Monthly terms.....	31

CRIMES AND PUNISHMENTS.

(See Felonies. See Misdemeanors.)

Infant under eighteen may be committed to house of reform	11
-----------------------------------------------------------------	----

DEAF MUTES.

PAGE

(See Charitable Institutions.)

DESCENT AND DISTRIBUTION.

Children of slave marriages may inherit	42
subsequent intermarriages.....	42

DETECTIVES.

Governor may employ	34
---------------------------	----

DISTILLERS.

Distilling under false name—penalty for	38
-----------------------------------------------	----

ELECTIONS.

Certificates of election.....	46, 47
Commissioners—State board.....	42
county board.....	48
County board of contest.....	49
decision of—duties of.....	49
how governed.....	49
who constitute.....	49
County Board of Election Commissioners	48
appointment—duties and powers...	48
constitute examining and canvassing board.....	45
oath—qualifications	43
record of proceedings.....	43
removal.....	43
County Canvassing Board.....	45
certificates of	45
form of certificate.....	46
meetings	45
tie votes	48
vacancies	45
who constitute.....	45
Constitutional amendment — how voted for.....	49
Contested election boards—State	48
Governor or Lieutenant Governor....	46
Officers of elections—appointment....	43
oath.....	44
proceedings on failure to appoint...	44
removal—qualifications	43
Poll books—where kept.....	45
Public measure—how voted for	49

	PAGE		PAGE
ELECTIONS—Cont'd.		FOREIGN NEWS CORPORATIONS.	
State Board of Election Commissioners.....	42	(See Corporations—Private.)	
chairman of.....	42	FRAUDULENT AND PREFERENTIAL CONVEYANCE.	
election of.....	42	How set aside.....	55
oath.....	43	GLANDERS.	
office of.....	49	Animals affected to be killed	2
qualifications.....	42	GOVERNOR.	
record of proceedings	43	Detectives—may employ	34
secretary—compensation of.....	43	Proclamation as to Houses of Reform	11
vacancy—how filled	48	Rewards.....	34
FEEBLE-MINDED INSTITUTE.		GRAVEL ROADS.	
(See Charitable Institutions.)		(See Turnpike and Gravel Roads.)	
FEES.		GUARDS.	
Assessors in certain counties.....	51	To protect prisoners	33
Assistant assessor—how salary fixed..	51	compensation of.....	34
Clerk Court of Appeals	51	inmates of jail may be armed as....	33
FELONIES.		number of	33
Confederating and banding together for unlawful purposes.		penalty for failure to obey summons.....	33
Alarming and disturbing persons.....	32	qualifications	33
Injuring and intimidating persons.....	32	who may summon.....	33
Injuring property—liable in damages	32	To protect property	33
Penalties	32	compensation	34
Prize Fights.		penalty for refusing to act	34
Penalty for engaging in.....	41	HEMP.	
FERTILIZERS.		Hundred weight of	114
Analysis.....	52	HOTEL KEEPERS.	
publication of.....	54	(See Innkeepers.)	
Director of Ex. Station—powers as to fees—how expended by	52	HOUSES OF PRIVATE ENTERTAINMENT.	
report by	52	(See Innkeepers.)	
labels	52	HOUSES OF REFORM.	
Labels—furnished	52	(See Charitable Institutions.)	
attached to packages.....	52	INDEXES.	
accepted as guarantee.....	52	Official indexer in certain counties ...	28
refused—when	54	INDICTMENT.	
Samples for analysis	53, 54	Of infant under eighteen years	11
Shipment—Director to be notified of..	54	INFANT.	
FISH.		Committed to House of Reform.....	11
Seining and netting prohibited	54	Removal from Penitentiary	12
FOOD.			
Analysis of adulterated.....	36		

	PAGE		PAGE
INNKEEPERS.		LIENS—Cont'd.	
Lien on baggage	55	Improvement Companies—liens of laborers, etc.....	61
Warrant and proceedings	55	Mortgage to secure loan on building should so state.....	61
INSANE ASYLUMS.		Turnpike Companies—laborers.....	61
(See Charitable Institutions.)		LIQUORS—INTOXICATING.	
INSOLVENT RAILROAD AND BRIDGE COMPANIES.		Sale of intoxicating beverage.....	62
(See Corporations—Private.)		penalty for.....	62
INSPECTION.		MECHANICS AND MATERIAL MEN.	
Houses of Reform of.....	10	(See Liens.)	
Nurseries of	56	MEDICINE AND SURGERY.	
Nursery stock from other States.....	57	General Provisions.	
INSPECTOR OF MINES.		Practicing medicine—what is.....	68
(See Mines and Mining.)		Physician practicing without license..	68
INTOXICATING LIQUORS.		Pharmacy.	
(See Liquors.)		Adulteration of drugs—penalty.....	67
JUDGES.		Certificates—who entitled to.....	65
(See County Judge, Circuit Judge, etc.)		affidavit for.....	65
JURY.		examination for.....	65
In condemnation proceedings.....	22	exposed	66
JUSTICE OF PEACE.		renewal of.....	66
Glandered animals—duty as to.....	2	Drugs—adulteration of.....	67
Infected nursery stock	57	Kentucky Board of Pharmacy.....	64
Jail physician.....	27	investigation by.....	68
KENTUCKY AGRICULTURAL EXPERIMENT STATION.		Pharmacists—who entitled to register as.....	65
(See A. & M. College.)		exempt from jury.....	68
KENTUCKY BOARD OF PHARMACY.		Poisons—what are	67
(See Medicine and Surgery.)		labeling and registering.....	67
LANDS.		Prosecutions for violation of Pharmacy law.....	68
Action, attachment, execution not to affect title of subsequent purchaser until memorandum is filed.....	58, 59	Registration—renewal of.....	66
notices—duty of clerk as to.....	59	false representations as to	66
Assignee—sale by—title to.....	2, 3	MINES AND MINING.	
LIENS.		Course of mining engineering established in State College	69
Canal—laborer's lien.....	61	analysis—assistants—Dean	70
Contractors and material men.....	60	inspector—oath	70
how lien lost.....	60	Employees in—wages of	69
statement to be filed.....	60	blacklisting	69
		requiring to deal at particular place—penalty for.....	69
		Geological collections—removal of ...	69
		Inspector of Mines—office of.....	70
		salary of.....	70

MISDEMEANORS.**General Provisions.**

Infants under eighteen may be committed to House of Reform..... 11

Escapes.

Enticing away and harboring inmate of House of Reform 12

Offenses against the Public Health.

Adulterated food—unlawful to sell or manufacture 35
 adulterated—meaning of term 36
 food—meaning of term 35
 penalties 37
 Branded bottles—description to be filed 39
 evidence concerning 40
 oath as to 41
 refilling—penalty for wrongful 39
 search warrant 41
 wrongful use of 40

Offenses against the Public Peace.

Public speaker—interfering with..... 35
 Threatening letters—sending 34

Officers—Offenses relating to.

Circuit judge—failure to appoint guards, etc., penalty..... 34
 County judge—failure to appoint guards, etc., penalty for..... 34
 Sheriff—failure to summon guards—penalty for..... 34

Other Offenses.

Badges of societies—wrongful wearing—penalty..... 35
 Census of schools—false information as to 74
 Distilling under false name..... 38
 false representations as to products.. 38
 name—wrongful use of..... 38
 Seining and netting..... 54
 Warehouse receipts..... 39

NEGROES.

Separation from whites in houses of reform 18

NEWS CORPORATIONS.

(See Corporations—Private.)

PAGE

NORMAL SCHOOL FOR COLORED PERSONS.

Appropriation for..... 1
 State bonds for..... 1

NURSERIES.

(See Inspection.)

OFFICE AND OFFICER.

Salary—deduction for neglect..... 85

PENITENTIARIES.

Action by—how prosecuted..... 87
 Appropriation to work prisoners..... 87
 Commissioners—election of..... 86
 classification of convicts 89
 compensation 86
 duties generally 88
 oath—majority may act..... 88
 record kept..... 89
 repairs made by order of..... 89
 report to Legislature.... 89
 rules adopted by 88
 visitation 88
 Officers not to be interested in prison contracts 89
 Prisoners—appropriation to work..... 87
 Warden to work on failure to lease 87
 Removal of infant convict from..... 12
 Salaries of officers and employes..... 89
 Warden—election of..... 87
 bond, oath, term, removal..... 87
 material and supplies purchased by 87
 report to clerk..... 87
 settlement annual..... 89

PHARMACY.

(See Medicine and Surgery.)

PHYSICIAN.

Jail physician in certain counties..... 27
 Woman physician in Insane Asylums 4

POLICE MATRON.

(See Cities of First Class.)

PRIZE FIGHT.

(See Crimes and Punishments.)

PUNISHMENT.

Of infant under eighteen.. 11

PAGE

RAILROADS.

(See Corporations—Private.)

REAL ESTATE.

(See Lands.)

REFORM—HOUSES OF.

(See Charitable Institutions.)

REGISTER OF LAND OFFICE.

Office of abolished..... 90

REVENUE AND TAXATION.

A. & M. College..... 91

Franchise tax. (See Cities.)

Land—when may be sold for taxes... 92

advertisement of..... 92

costs of sale..... 92

sale to be for cash..... 92

Sheriff—duties as to..... 92

Tax rate..... 91

ROADS AND PASSWAYS.

Fiscal Court to control..... 96

How maintained 96

SALES.

By assignee..... 2

SCHOOLS.

Appropriation for State Normal for colored persons..... 1

SCHOOLS—COMMON.Bonds—district may refund 104
provisions in regard to..... 104County Board of Examiners—examination of teachers by 98
teachers' certificates..... 98

investigation as to character of applicants 99

County Superintendent—election of.. 97
certificates to teachers..... 98

character of applicants—investigation as to.... 99

district trustees—duties as to 100

plan of school building to be submitted to 105

not to be interested in building contract..... 105

PAGE

SCHOOLS—COMMON—Cont'd.

District trustees—election of..... 99

chairman—term of office 99

officers—election of..... 99

teacher—employment of 102

building contract—not to be interested in 105

trust property—acquiring of 106

seminary property—purchase of ... 106

qualifications..... 99

District treasurer — appointment ... 100

duties 100

District taxation — assessment — collection..... 100

Graded Common Schools—boundary, 103

bonds—vote on issue..... 103

district may refund bonds 104

elections—to establish 102

funds for buildings 103

grounds and buildings..... 103

petition for 102

tax—limit of..... 102

SECRETARY OF STATE.

Duties as to constitutional amendment proposed 49

SINKING FUND.

Commissioner to issue bonds for A. & M. College and State Normal School 1

SLAVES.

Children of may inherit..... 42

SOCIETIES.

Wrongfully wearing badges of..... 35

STATION HOUSE.

(See Cities.)

STATE COLLEGE.

Course of mining engineering established in..... 69

STENOGRAPHER.

(See Cities.)

Official—appointment..... 107

term of office..... 107

qualifications—removal 107

TAX.

Annual rate of 91

PAGE

	PAGE		PAGE
TELEGRAPH COMPANIES.		TURNPIKE AND GRAVEL ROADS—Cont'd.	
(See Corporations—Private.)		County judge—to issue order	108
TELEPHONE COMPANIES.		Fiscal court—may acquire.....	109
To furnish equal facilities	25	Commissioners to value—duties of.....	111
TESTIMONY OF WITNESSES.		Lands—how disposed of.....	109
As to mobs	84	Order—publication of.....	108
TOLL GATES.		Owners of road summoned	112
Guards to protect.....	83	Proceedings may be abandoned.....	112
TRADE MARKS.		Tax—rate of—how applied	111
Distillers may use	39	Title—how conveyed	110
TRAINS.		Toll houses—disposed of.....	109
Railroads required to run one each		Vote—when taken.....	108
day	18	counted	109
TREASURER—STATE.		certificate of	109
To call in warrants	15	State and county stock.....	110
TRUST COMPANIES.		Where vote had been taken	111
(See Corporations—Private.)		When made public roads—how re-	
TURNPIKE AND GRAVEL		paired	109
ROADS.		Act to provide for Sale of State's	
In General.		Interest in Turnpikes.	
Acquired by cities of second class.....	82	Commissioners of sinking fund may	
Funeral processions free.....	118	sell turnpikes	112
Guards for.....	33	Conveyance—how made	112
Officers—settlements.....	113	Proceeds—how invested.....	112
Ministers exempt.....	113	Sale per mile.....	112
School children exempt	113	Statement of revenues.....	118
Act to provide free roads.....	108	WAREHOUSES.	
Abandonment of proceedings	112	Distilleries only may issue warehouse	
Application for vote—election	108	receipts.....	39
Bonds to purchase road	110	WEIGHTS AND MEASURES.	
County canvassing board—duties in		Hemp—hundred weight of	114
elections concerning	109	WITNESSES.	
		Fees in causes removed to U. S.	
		Courts.....	15
		WOMAN.	
		Woman physician in Insane Asylums	4

Page 1
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
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